

6-20-1988

## Forum on Campaign Finance

New York State Commission on Government Integrity

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### Recommended Citation

New York State Commission on Government Integrity, "Forum on Campaign Finance" (1988). *Hearings*. Book 2.  
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ORIGINAL

STATE OF NEW YORK  
COMMISSION ON GOVERNMENT INTEGRITY

FORUM ON CAMPAIGN FINANCING

Association of the Bar of the City of New York  
42 West 44th Street  
New York, New York

Monday, June 20, 1988  
9:00 o'clock a.m.

PRESENT: JOHN D. FEERICK, Chairman  
RICHARD D. EMERY,  
PATRICIA M. HYNES,  
JAMES L. MAGAVERN,  
BERNARD S. MEYER,

Commissioners

PETER BIENSTOCK, Executive Director

KEVIN J. O'BRIEN, Chief Counsel

NICOLE A. GORDON, Counsel to the Chairman

CONSTANCE CUSHMAN, Deputy Counsel

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1  
2 THE CHAIRMAN: This public hearing is now  
3 in session. Good morning.

4 This is the third public hearing in the  
5 Commission's examination of the role of big money  
6 politics in New York. Our hearings in March re-  
7 vealed the workings of the money-raising machines  
8 which have been the major source of funding for the  
9 astronomically expensive races for City-wide office.

10 The computerized campaign finance data re-  
11 leased by the Commission two weeks ago added to  
12 the public's knowledge of where the money comes from  
13 for these races.

14 Today, our focus is on New York City, Mayor  
15 Koch, City Council President Stein, and Comptroller  
16 Goldin.

17 We will also hear testimony from one of the  
18 most influential private citizens in New York City,  
19 publicist and lobbyist Howard Rubenstein.

20 This hearing comes at a crucial time in the  
21 history of this City and this State. From every  
22 corner comes newspeople at all levels of government  
23 who have transgressed the law or fallen short of the  
24 ethical standards that we, as a people, desire,  
25 indeed require, if we are to have confidence in

government.

Because of the attention to transgressions, cynicism grows, and people in all walks of life lose respect for government, even though the vast majority of government officials carry out their responsibilities honestly and fairly.

On the other hand, we now have an opportunity for reform, an opportunity to revitalize both the ideals and the practice of government.

The leaders of this City have already taken an important step that shows their willingness to seize this opportunity.

The City has enacted and begun to implement a new, historic public campaign finance law. This will, for the first time, reduce the dependence of City officeholders on a constant flow of funds from those who do business with the City and will impose limits on the amounts which can be spent by candidates who accept public funding. We applaud these efforts and the vision of our leaders in achieving this reform.

But the Public Funding Law has not eliminated the need for private funds. And, faced with election in 1989, the City-wide officeholders even



1  
2 now must turn to questions of how to raise the  
3 funds they need, to pay outstanding debts and to  
4 secure their positions. As they do so, it is  
5 appropriate to examine how the new law will apply  
6 and whether it can achieve its laudable goals.

7 It is appropriate to look closely at fund-  
8 raising to see whether, even under the new law,  
9 certain practices will continue to create appearanc-  
10 es of trading favors, access, or votes, for money.

11 For example, it is appropriate for us to  
12 continue in our examination of whether numerous  
13 corporations, all controlled by the same owner,  
14 should each be permitted to give contributions which  
15 then have a substantial cumulative impact; whether  
16 virtually unlimited contributions to wipe out a  
17 prior campaign debt should be allowed; whether  
18 money should be given, at all, by those who do  
19 business with the City; whether lobbyists should  
20 be permitted to solicit funds on behalf of the  
21 same individuals before whom they lobby.

22 Let me be clear about one thing. We are  
23 not talking about illegal acts. That should be  
24 emphasized. We are talking about conduct which  
25 does not necessarily violate the letter of the

1  
2 laws, but which, because it may not be consistent  
3 with the purposes of those laws, can take the  
4 fundraising processing with appearances of impro-  
5 priety. These appearances erode the confidence of  
6 the people in the integrity of their government.

7 Today we will explore whether there is still  
8 legal conduct which creates the appearance that  
9 favors are given to campaign contributors who do  
10 business with government.

11 It is important to examine how the systems  
12 of government are working, to explore just how the  
13 Board of Estimate, the most important administra-  
14 tive body in the City, over which our witnesses  
15 today have voting control, keeps track of its  
16 decisions.

17 Our staff has been examining the relationship,  
18 if any, between campaign contributions and the  
19 decisions of the Board of Estimate. What they have  
20 found is that appallingly antiquated record keeping  
21 makes any such examination all but impossible.

22 They have found that it is virtually impossible  
23 for the uninitiated to know what goes on at the  
24 Board of Estimate. They have found that there is  
25 no coherent, accessible system of records to show

1  
2 the progress of the matters through the Board's  
3 decision-making process. They have found that the  
4 most recent Journal of Proceedings is for the year  
5 1981, and the most recent index to that Journal is  
6 for the year 1976.

7 The situation at the Board of Estimate has  
8 made it impossible for members of the public to  
9 monitor compliance with the Goodman Amendment. This  
10 1986 law seeks to prohibit campaign contributions  
11 in excess of \$3,000 from anyone with a matter con-  
12 sidered by the Board, within six months before and  
13 twelve months after that event.

14 The City is now voting its new budget. The  
15 Commission has learned that, since our inquiries  
16 into the Goodman Amendment began, the Secretary of  
17 the Board of Estimate has made efforts, joined by  
18 some Board members, to improve and update the record-  
19 keeping systems. We applaud those efforts. We also  
20 urge the Board to consider adequate funding for  
21 this project as a matter of the highest priority.  
22 This funding is the insurance policy that citizens  
23 must have to secure their faith in the services of  
24 their elected officials into the future.

25 We ask a great deal of our elected leaders.

1  
2 It is with the greatest respect for the difficul-  
3 ties of their offices that we embark on our hearing  
4 today. We do not minimize what they have already  
5 accomplished. But we strongly believe that the  
6 citizens of this City are entitled either to assur-  
7 ances that the measures already taken are sufficient  
8 or that additional necessary reforms will be pur-  
9 sued so that big money does not continue to dominate  
10 the elective process.

11 We call upon our elected leaders to make  
12 this their first priority. We will try in every  
13 way to support them in their efforts.

14 A brief word about the format of our hearings.  
15 Witnesses who testify have a right to file a  
16 written statement either before or after the hear-  
17 ings and to be accompanied by counsel. Any person  
18 whose name is mentioned during the hearings also  
19 has a right to submit a statement to the Commission.

20 The witnesses who testify today will be first  
21 asked questions by Peter Bienstock, the Commis-  
22 sion's Executive Director, or by Connie Cushman,  
23 Deputy Counsel to the Commission.

24 Members of the Commission will then have an  
25 opportunity to inquire of the witnesses.

We appreciate the assistance in our work by the three New York City-wide officeholders who will testify today.

I'd like to call as the first witness, Mayor Koch.

H O N O R A B L E       E D W A R D       I.       K O C H ,

called as a witness, having been first duly sworn by the Chairman, was examined and testified as follows:

THE CHAIRMAN: Please be seated.

THE WITNESS: Thank you.

Mr. Chairman and members of the Committee, first I want to thank you for arranging your schedule a little bit earlier so that I can leave at 10:45 to attend the funeral of a police officer who was killed in the line of duty, and, secondly, to tell you that in pursuant of the questions that you posed in your letter of invitation, I have brought with me -- and they're sitting in the rear here -- people who might have more detailed information on specific subjects, and you might either want to swear them in now or later. It's your decision, obviously.

Peter Zimroth, who is the Corporation Counsel,

1  
2 who can talk in greater detail about the legisla-  
3 tion which we enacted on campaign financing.

4 Pat Mulhearn, who is counsel to the Mayor at  
5 City Hall, and who issues the directives that I  
6 issued over the past on matters that you'd be  
7 interested in.

8 And Larry Mandelker, who has been a witness  
9 before you, and who is my Campaign Treasurer.

10 THE CHAIRMAN: My preference would be to  
11 have them sworn in at this time, Mayor.

12 (Whereupon, Patrick Mulhearn, Peter Zimroth,  
13 and Lawrence Mandelker, were duly sworn by the  
14 Chairman.

15 THE CHAIRMAN: I would like to enter in the  
16 record of these proceedings at this point the  
17 written statement filed by Mayor Koch, and provide  
18 you with an opportunity, Mayor, to summarize that  
19 statement, if you wish.

20 MAYOR KOCH: I am not going to read it, be-  
21 cause I do appreciate your taking it. I would like  
22 to, instead of simply confining myself to that,  
23 make these modest points brief.

24 I believe that the most important part of  
25 your work is the address the following issues:

Campaign filings that have to be sufficiently detailed and done in a timely way, so that everything that a person is running for office is doing in pursuit of that campaign is available to the public and for criticism by his or her opponent.

I believe that there have to be limitations on financing, so as to reduce the cost of campaigns and limit the impact of large contributions.

I believe there has to be public financing, not only City-wide, but State-wide.

I believe there has to be ballot access so as to remove the procedural attacks made upon candidates which have in the past eliminated bona fide candidacy, not leave it to courts, because the courts have put the Legislature on notice that they're going to address the law in a very strict way, and they have, in fact, thrown candidates off the ballot for reasons that would defy rationality, because they were technical violations of the law.

You can't blame the courts. They have the Legislature on notice, and the Legislature has done nothing to deal with that.

Then, finally, that there be adequate information be made available to the public as it relates

1  
2 to the position of the candidates through debates  
3 that are free. We are doing that through N.Y.C.  
4 through brochures that are made available through  
5 the Board of Elections, which, I believe, they  
6 just decline to do.

7 I believe that if those five issues, as I  
8 see them, were to be addressed by your Committee,  
9 with recommendations, that would have great impact  
10 upon those who can change the law, the State Legis-  
11 lature, and you would have carried out your mission  
12 in such an exemplary way, we wouldn't need another  
13 Commission for another 20 years.

14 THE CHAIRMAN: Thank you, Mayor.

15 I'd like to turn the questions over to Peter  
16 Bienstock.

17 MR. BIENSTOCK: Thank you, Mr. Chairman, and  
18 thank you Mr. Mayor for joining us this morning.

19 If at any time during my questioning you  
20 feel it would be appropriate for Mr. Mandelker or  
21 Mr. Zimroth or Mr. Mulhearn, please just indicate  
22 that. We can accommodate it.

23 I take it from what we've just said and from  
24 the opening statement that's on the record, that  
25 you would agree that wealthy individuals and



businesses should be limited in the amounts that they can give campaigns?

MAYOR KOCH: I not only agree, I initiated the legislation which was formulated by Peter Zimroth which does, in fact, exactly that, putting caps of \$3,000, and I want to give Peter Vallone, who is the Majority Leader, and without whom this law could not have passed through the City Council, because it was not exactly favorably received by everybody, great credit for assembling the coalition and majority that did it.

MR. BIENSTOCK: Can you tell us why it is that you believe that the wealthy individuals and businesses should be limited in contributions?

MAYOR KOCH: Yes. Primarily, perception, I believe, and I think the Chairman stated it, that most people are honest. I believe that -- I'm sure that some, and we know from convictions that have taken place, that some are not. But the vast majority of people in public elected office are honest, and I do not believe that many, if any, have sold their votes as it relates to the people now in government.

I don't know of anyone in the government today

1  
2 who has sold their votes, and I don't believe they  
3 have.

4 But, nevertheless, there is a perception.  
5 There is a perception that if you give the maxium,  
6 which is \$50,000, that somehow or other you're buying  
7 something with that \$50,000, and you say to people,  
8 (a) they have not, and (b) the\$50,000, to someone  
9 who has given that \$50,000, in terms of ability to  
10 give, is probably less than they might have given  
11 if you compared someone of moderate means who gave  
12 a thousand dollars -- proportionately, the person  
13 who gave a thousand, gave more.

14 MR. BIENSTOCK: Well, can you tell us what  
15 your sense is of how the limitation is set?  
16 \$3,000 seems to be a magical number. It's a limit  
17 of the Public Funding Law, the Goodman amendment.

18 MAYOR KOCH: Well, I'll comment on that.

19 I was in the Congress when we adopted public  
20 financing, and I and John Bradimus were the two  
21 members of the then House Administration Committee  
22 who advocated public financing for members of  
23 Congress and not just limited to the President  
24 and Vice President.

25 We lost in the Committee because there was

1  
2 no support for it then, and I don't think there is  
3 support for it now, either in the Congress or even  
4 with the public, although I haven't seen any polls  
5 on the subject recently.

6 At that time, they took a thousand dollars,  
7 which I thought was foolish, unless it had an escalat-  
8 or in it, because a thousand dollars today, compared  
9 to a thousand dollars then, it's at least \$2,000,  
10 probably more today, and their stuck with that  
11 figure, because it had no CPI escalator.

12 With respect to the way the \$3,000 was arrived  
13 at here was actually more -- it was reduced to  
14 \$3,000. My recollection is that it was originally  
15 \$3,700, something like that, in the City-wide  
16 races. And then I believe we, for uniformity sake,  
17 had it correspond with the Goodman Law limitation,  
18 which was the \$3,000. I don't think there was any  
19 special rationale other than that.

20 MR. BIENSTOCK: Is it fair to say that is a  
21 limit, whatever the number may be -- it has to be  
22 an arbitrary number -- that that is a limit above  
23 which the people could not reasonably perceive or  
24 suspect that a --

25 MAYOR KOCH: No, no. I mean, there are people

1  
2 who believe the limit was set too low. That, in  
3 fact, that limit adversely impacts upon insurgents  
4 who need a larger sum of money in order to get  
5 their case across.

6 But it's an arbitrary figure, and I believe  
7 it was set simply to -- you didn't want to have two  
8 figures. You didn't want to have the Goodman Law,  
9 which was \$3,000, and then have to worry about that,  
10 and another law said that you could give more than  
11 \$3,000.

12 MR. BIENSTOCK: What I'm getting at is the  
13 principle of how one sets a limit.

14 My question is: It seems to us it may be a  
15 limit, a number above which people, or substantial-  
16 ly above which people could reasonably suspect or  
17 perceive a vote was being bought.

18 Is that fair?

19 MAYOR KOCH: Well, I don't think that that  
20 really encompasses it. If you said it was \$5,000,  
21 you would have, I think, the same response, that  
22 that is not an unreasonable figure.

23 When you have \$50,000, which is what the  
24 State law allows, then perception is that that  
25 \$50,000 buys more than simply an acknowledgment

1  
2 of thank you.

3 So, I have no way of knowing where the  
4 public moves in and says, from a perception point  
5 of view, \$10,000 is too much, but \$3,000 is not  
6 a magic number.

7 MR. BIENSTOCK: In your statement, you  
8 indicated that there came a time when you set  
9 coluntary limits on your campaign.

10 MAYOR KOCH: I did.

11 MR. BIENSTOCK: Can you tell us when that  
12 was, and what the particular circumstances were?

13 MAYOR KOCH: Sure. My recollection is that  
14 it followed the scandals that became the subject  
15 of great public discussion with Donald Manes and  
16 so forth. And we had to pay off a deficit, it's  
17 my recollection, that we had from the last campaign,  
18 and I -- it was my decision, nobody else's -- said,  
19 because the Goodman Law didn't exist at that time,  
20 it's my recollection -- I said, let's take the  
21 limitation that's imposed on Congress and CPI it,  
22 and if that's the limitation that we will impose  
23 upon contributors, and it was \$2,000, I believe.

24 MR. BIENSTOCK: \$2,000 on an individual?

25 MAYOR KOCH: Yes.

1  
2 MR. BIENSTOCK: And that was \$2,000 for the  
3 primary, \$2,000 for the general election?

4 MAYOR KOCH: It wasn't done that way, because  
5 it was to pay off a deficit.

6 MR. BIENSTOCK: It was \$2,000 for --

7 MAYOR KOCH: For that particular dinner, to  
8 pay off the deficit.

9 MR. BIENSTOCK: And I take it that those  
10 voluntary limits stayed in effect up until the end,  
11 at least until the end of 1987?

12 MAYOR KOCH: Yes. I had a second dinner,  
13 which is for the '89 -- the Mayoralty race, and I  
14 kept the same limitation.

15 MR. BIENSTOCK: And it was at that point  
16 that it was, I believe -- and correct me if I am  
17 wrong, I don't mean to put words in your mouth,  
18 of course -- that it was \$2,000 for the primary  
19 and \$2,000 for the general election?

20 MAYOR KOCH: Yes, that is correct, because  
21 it was directed -- said specifically the '89 race,  
22 whereas the earlier one was to pay off the deficit  
23 from the '85 race.

24 MR. BIENSTOCK: At that point, the corporate  
25 limit was \$3,000 for one corporation for a year;

is that correct?

MAYOR KOCH: What was the last part of your sentence?

MR. BIENSTOCK: For the year, an annual limit of \$3,000 for any --

MAYOR KOCH: We haven't gone back to anybody, I believe. We set the limitation at \$3,000.

MR. BIENSTOCK: Do you know what your policy was with respect to affiliated corporations?

MAYOR KOCH: I don't know whether we took money from -- by "affiliated," you mean a common stock ownership?

I'd have to turn to our Campaign Treasurer.

MR. MANDELKER: We did not have a policy concerning affiliated corporations. If a corporation would give under the Election Law, that's separate corporations, separate treasurer, separate books, and it could give under our voluntary limits.

MR. BIENSTOCK: And the same is true under the new City Public Funding Law?

MAYOR KOCH: I don't think that's so. There's great debate as to whether or not the existing language of the law would preclude subsidiaries or affiliates, and some of it, by the way, is

covered by the Goodman Law, as to what can be done.

But, restricting my answer only to the legislation, it's the belief of some of us that the law does not preclude the subsidiaries, but if it does not directly, then we believe that this Commission, which has been created under the law, would have the right to define the subsidiaries as one person, and, therefore, subject to the limitation.

And if they don't have that legal right, if it were to be challenged, we would hope they make that recommendation, and then the Council would abide by it.

MR. BIENSTOCK: So that, if I am correct, in the drafting of the law, it was your intent to prevent aggregate corporate contributions?

MAYOR KOCH: I did not draft the law, the Corporation Counsel did.

But, I want to tell you what I believe should be the law, and whether it was his intent at the time he drafted it, you will have to ask him.

MR. ZIMROTH: I honestly don't remember what the intent was at the time. It's clear to me, in any event, if you have a situation in which you're



1  
2 talking about subsidiary corporations, it seems  
3 to me that that should be covered under the law  
4 as one person.

5 MR. BIENSTOCK: You believe the present  
6 language does that?

7 MR. ZIMROTH: I am not sure the present  
8 language does that. I think the present language  
9 is sufficient for the Campaign Finance Board to  
10 adopt that by resolution, and, as the Mayor said,  
11 if they believe otherwise, we would seek an amend-  
12 ment to the law.

13 MR. BIENSTOCK: Let me ask you this question:  
14 Do you view your voluntary limit as superseded  
15 by the new law?

16 MAYOR KOCH: I do. The law now allows \$3,000.  
17 I don't intend to impose on myself a \$2,000 limita-  
18 tion and have my adversaries use the existing law.

19 MR. BIENSTOCK: Do you intend to now impose  
20 on yourself the limit that Mr. Zimroth just re-  
21 ferred to concerning affiliated corporations?

22 MAYOR KOCH: Yes, that we would do, because  
23 I believe that's in the law, and I am not going to  
24 wait for it to be tested.

25 MR. BIENSTOCK: Let me ask you -- I want to

1  
2 go through several examples of contributions made  
3 to your campaign both before and after the voluntary  
4 limits were instituted, and when I get through those  
5 examples -- there are three of them -- I'd like  
6 to ask you some questions which are along the lines  
7 that we've been discussing.

8 If I can have Exhibit 27, 25 and 29 shown?

9 The first example is Exhibit 27, which is in  
10 the book in front of you, Mr. Mayor, and also blown  
11 up in front.

12 MAYOR KOCH: I've now looked at Exhibit 27.

13 MR. BIENSTOCK: For the record, that's a  
14 January 13, 1988 letter from a person with the  
15 Government and Industry Affairs person at Shearson  
16 Lehman Brothers to Debbie Pfeiffer of Event  
17 Associates, and I believe we will agree that Event  
18 Associates is a company that you use?

19 MAYOR KOCH: The company we pay to do the  
20 finance arrangements.

21 MR. BIENSTOCK: That letter, I just want to  
22 make one point about it. It shows that Shearson  
23 Lehman gave \$10,000 at one time through four  
24 affiliated separate corporations, even to the point  
25 of using the same bank account with respect to two

of those corporations.

Now, the next exhibit I am going to refer to is 25.

MAYOR KOCH: Yes.

MR. BIENSTOCK: For the record, and while you're looking that over, Mr. Mayor, Exhibit 25 is a listing prepared by Commission staff from the Mayor's file, which indicates corporate affiliates of Merrill Lynch and, among other things, I want to make one point about the chart. There are many points that can be made and we can discuss them.

November and December of 1987, under the voluntary limits, Merrill Lynch gave \$20,000 through seven subsidiaries, and back in the 1985 campaign, Merrill Lynch gave \$20,000 on one day, when the legal corporate limit was \$5,000, through four subsidiaries. But, in any event, Merrill Lynch, if you will, found a way to give the same amount, just increasing the number of corporate subsidiaries.

The third exhibit I want to refer to is Exhibit 29, which is also a Commission chart listing the contributions as reported in the files of your Campaign Committee, concerning Bernard Mendick, who, I believe, we can all agree to characterize

1  
2 as a New York City real estate developer.

3 In 1985, Mr. Mendick, through personal con-  
4 tributions of he and his wife, gave \$15,000 and in  
5 1987, under the voluntary limits imposes by your-  
6 self on your own campaign, Mr. Mendick added four  
7 of his corporations, giving \$3,000 each, and he and  
8 his wife each chose to give the maximum they were  
9 allowed to, for a total of \$16,000.

10 So that there, too, he found a way to get the  
11 same amount of money to the campaign through the  
12 use of corporate affiliates.

13 My question is -- and it was, in part,  
14 answered by what you said about your interpretation  
15 of the law in the future -- if it's not the case  
16 that the limit, \$3,000, applies to corporate af-  
17 filiates, isn't it just a matter of how many cor-  
18 porations one has access to as to whether or not  
19 they can be limited or unlimited contributions?

20 MAYOR KOCH: My response is a simple one.  
21 When we limited our contributions, we did not impact  
22 on the subsidiaries. The new law, we believe, does,  
23 and we hope that that would be the outcome by any  
24 court challenge. If it's not, then the law should  
25 be amended as it relates to taking monies from

1 subsidiaries.

2  
3 MR. BIENSTOCK: And with respect to any  
4 State law that the Commission would propose, I  
5 assume --

6 MAYOR KOCH: The same. Our problem -- we  
7 tried desperately to get the State of New York  
8 Legislature to deal with campaign financing,  
9 desperately, and at one point we were very close  
10 to it and it was the State Senate that turned it  
11 down, and they turned it down in a peculiar way.

12 Warren Anderson -- and he said it to me  
13 directly -- that they were not for campaign financ-  
14 ing for members of the City Council races. They  
15 had no objection to limitations for City-wide  
16 races, but because they were opposed to the prece-  
17 dent which might then impact on the City Legis-  
18 lature, they would not support the Assembly bill  
19 which gave campaign financing for local races, and  
20 we couldn't do anything with them.

21 The Assembly couldn't do anything, nor could  
22 the Governor.

23 The Governor and I were jointly involved in  
24 the matter, and then we turned to our Corporation  
25 Counsel, Fred Schwarz, and then ultimately, Peter

1  
2 Zimroth, who came up with what we think is con-  
3 stitutional and innovative, and accomplishes not  
4 in as fine a way as the State Legislature would if  
5 it enacted it, but because it doesn't impose -- it  
6 says you can't participate in the public financing  
7 unless you're involved, which is not as good as  
8 imposing.

9 MR. BIENSTOCK: But it's the only way you  
10 could do it?

11 MAYOR KOCH: The only way we could do it.

12 MR. BIENSTOCK: I was also going to ask you  
13 similar questions about the Goodman Amendment,  
14 which doesn't have a corporate aggregation limit,  
15 but your response really, I think, makes those  
16 questions academic, in that if you're right that  
17 the City law imposes that aggregation limit, then  
18 it becomes the lower limit.

19 MAYOR KOCH: Uh-huh.

20 MR. BIENSTOCK: Although there's a difference  
21 between the Goodman Amendment limit and your limit,  
22 with respect to --

23 MAYOR KOCH: There is. We hope our law will  
24 supersede that aspect.

25 MR. BIENSTOCK: Now, I would like to skip

over some of the questions I was going to ask and refer to Exhibit 48, which is blown up here.

MAYOR KOCH: Yes, sir.

MR. BIENSTOCK: My question is very simple:

Is it fair to say that Exhibit 48 is a document which announces a decision which was jointly made by you and Comptroller Goldin?

MAYOR KOCH: I would assume so, sure.

MR. BIENSTOCK: And that's a decision which is not subject to review by the Board of Estimate?

MAYOR KOCH: That's correct.

MR. BIENSTOCK: Therefore, it's not subject to the limits of the Goodman Amendment?

MAYOR KOCH: Yes, you're correct.

MR. BIENSTOCK: So that --

MAYOR KOCH: It would be subject to the law--

MR. BIENSTOCK: I understand.

MAYOR KOCH: -- the new law.

MR. BIENSTOCK: And you have also cut through some of my questions in this area, but I just want to sum it up.

That is, that with respect to the Goodman Amendment, the beneficiaries of the decision announced on this exhibit, could still give money --

1  
2 if only for the Goodman Amendment -- could still  
3 give only \$3,000?

4 MAYOR KOCH: But not under the new law.

5 Can I break in and give you some additional  
6 information on that?

7 MR. BIENSTOCK: Sure.

8 MAYOR KOCH: This process of selecting new  
9 underwriters is a very interesting process, and  
10 I'll tell you what the problems were.

11 The Comptroller and I decided that we would  
12 have an open process, and neither he nor I had  
13 any decision making in the process. We delegated  
14 that responsibility to others. In my case, it  
15 would have been Paul Dickstein and someone from  
16 the Corporation Counsel, Sandy Altman, I guess,  
17 three or four people, and the Comptroller similar-  
18 ly, and it had to be ultimately a unanimous deci-  
19 sion, and they made it, and Jay and I just con-  
20 firmed it.

21 What they did was, they removed three major  
22 banks who had been underwriting our bonds back in  
23 the fiscal crisis, because the criteria used under  
24 this RFP were such as to cause others to be pre-  
25 ferred in what they referred to as a tombstone.



1  
2 You can't imagine the outrage of those three banks.

3 I will tell you, those banks were the biggest  
4 banks in town; Citibank, Chase Manhattan and Chemical.  
5 I got calls from all three Presidents and, you know,  
6 what they said to me, "This is a political process."  
7 We said, "Just the other way. Just the other way."  
8 I have nothing to do with it, neither does Jay.  
9 We turned this over to experts in financing, and  
10 whether they are right or wrong, I don't know, but  
11 they made a decision that the ones that they select-  
12 ed were the best under that process."

13 Then they said to me, "Well, it's not fair.  
14 We have X thousands of employees. We were with the  
15 City in 1975 when the City was at the edge of  
16 bankruptcy, and now that the City is doing okay,  
17 you're throwing us out."

18 I'd have to say, well, I've already had lunch  
19 with one of them, I am having lunch with the other  
20 two, but it won't help, because whatever you say to  
21 them, they say, it had to be political, and I'm  
22 telling you I'm glad we did it, not because we  
23 threw them out, but because I thought the process,  
24 as did Jay Goldin, should be on the basis of experts  
25 making the selection.

1  
2 But then you have to take the attacks,  
3 understandable, from those who lose, because that's  
4 worth millions of dollars. Those people make mil-  
5 lions of dollars. But, you have to have them in  
6 our system to sell your position.

7 MR. BIENSTOCK: Position as to whether you're  
8 higher up or lower down is also --

9 MAYOR KOCH: Higher up or lower down impacts  
10 upon two things: One, your involvement in the  
11 numbers of bonds to be sold, and, secondly, do  
12 you know what bothers them more than anything else?  
13 It wasn't the money. It was prestige. How do  
14 they explain it? I don't know how they explain it.

15 MR. BIENSTOCK: Mr. Mayor, I'd like to turn  
16 to another subject, and that's the subject of  
17 lobbyists.

18 There was a time, I take it, when you proposed  
19 a resolution or a City Ordinance, I believe it was,  
20 which would have treated lobbyists and other re-  
21 tained representatives of people doing business  
22 with the City, especially with respect to their  
23 campaign contributions; isn't that true?

24 MAYOR KOCH: I turn to Pat Mulhearn.

25 MR. BIENSTOCK: I am referring to 738, which

1  
2 was a proposal drafted by your former Corporation  
3 Counsel.

4 MR. MULHEARN: I believe this was the pro-  
5 posal by Fred Schwarz that anyone who did business  
6 at the Board of Estimate or gave a campaign contri-  
7 bution would be barred from certain discretionary --

8 MR. BIENSTOCK: That's correct.

9 MAYOR KOCH: That was a variant on the  
10 Campaign financing Law that Peter Zimroth perfected.  
11 Fritz' was innvative and very important, but not  
12 as comprehensive as what Peter Zimroth came up with.

13 MR. BIENSTOCK: No doubt about it. We're  
14 not disputing that.

15 My question is: That proposal treated --  
16 which was introduced in the City Council, treated  
17 lobbyists specially, in that it included that dis-  
18 qualification would be triggered if a contribution  
19 is given by the business doing business before the  
20 Baord of Estimate, or if the contribution was given  
21 by the lobbyist --

22 MAYOR KOCH: With the lobbyist's own money,  
23 I guess. It had to be their own money.

24 MR. BIENSTOCK: That's right, or the public  
25 relations specialist.

1  
2 MAYOR KOCH: You mean, it would be an estension  
3 of the corporation for these purposes?

4 MR. BIENSTOCK: That's right. Do you recall  
5 that?

6 MAYOR KOCH: No, I do not.

7 MR. BIENSTOCK: Do you believe that lobbyists  
8 -- that there should be a special prohibition on  
9 contributions by lobbyists?

10 MAYOR KOCH: I think they should be subject  
11 to the same personal limitation. That is to say,  
12 a lobbyist is a person. A person is defined as a  
13 corporation or a natural person, and the limitation  
14 is \$3,000, and that's what a lobbyist should be  
15 allowed to make as his maximum or her maximum  
16 cotribution.

17 MR. BIENSTOCK: Are you familiar with Mr.  
18 Rubenstein's view on this subject?

19 MAYOR KOCH: No. His view? No. I am  
20 familiar with him, but not his view.

21 MR. BIENSTOCK: Let me refer you to Exhibit 21,  
22 and ask you to look at that?

23 MAYOR KOCH: Yes, sir.

24 MR. BIENSTOCK: I take it you were not  
25 familiar with the thrust of the view?

1  
2 MAYOR KOCH: No. I think I saw something  
3 like that in the press over the extended period of  
4 time, or heard that he was getting out of politics  
5 because, you know, you have to understand something.  
6 The question is why anyone would get into politics,  
7 not why they get out. The question is why anyone  
8 would support someone and then run the risk of being  
9 required to explain why they made a campaign  
10 contribution.

11 Now, you know, if people could get elected  
12 with the government paying everything, you wouldn't  
13 have to raise a nickel, but that's not real life.

14 We're trying to reduce the impact of having  
15 to go out and raise money by public participation,  
16 as we have done it here, but in our society today  
17 -- and I'm not blaming anybody -- public officials  
18 and people who are involved in supporting public  
19 officials, run the risk of headlines that they've  
20 made a contribution, it must be nefarious.

21 May I degress for one minute?

22 MR. BIENSTOCK: Sure.

23 MAYOR KOCH: One of the large contributions  
24 made to me was by Milton Petrie. He's a millionaire  
25 --not a millionaire, a billionaire. He's a wonderful

1  
2 man in his late eighties. He likes me. He gave  
3 me the maximum. The maximum is \$50,000, and it may  
4 even be that his wife did this. I don't know. I  
5 know he gave, and it may be that his wife did, too.  
6 I don't know. The records would bear that out one  
7 way or the other.

8 He helped me when I was -- in 1977, when I  
9 ran the first time, and every election thereafter.  
10 He has never asked me for anything, with one excep-  
11 tion: That I come to three dinners that were held  
12 in his honor; one by the Archdiocese, one by Beth  
13 Israel, and one by some third foundation, because  
14 he gives them millions of dollars when they have  
15 these dinners. That's the only time that he's  
16 made a request of me, that I come to those dinners.

17 And, by the way, I did. I went to his three  
18 dinners.

19 Now, why do I make this point? Well, if  
20 you didn't know that and you look at a chart, and  
21 he's given \$50,000, you say, "Oh, my God, what did  
22 he get for it?" He got nothing for it. And, from  
23 his point of view, that \$50,000 is less than a  
24 thousand dollar contribution made by someone who's  
25 making \$50,000 annual income.

1  
2 So, what I'm trying to convey is, that I have  
3 no objection to the scrutiny, none at all. I mean,  
4 if you -- you know, Harry Truman said, "If you can't  
5 take the heat, get out of the kitchen." I've been  
6 here eleven years. I've taken plenty of heat.  
7 That's part of life, that's part of public service.  
8 But the people who are not choosing to go into  
9 public office -- and there are less and less doing  
10 that, because of what I've just said to you -- those  
11 who do it vicariously, by making contributions, to  
12 be slammed about as they have been, unless you can  
13 show that they got something other than what I be-  
14 lieve is reasonable, that they wanted to support  
15 people -- can I just take a brief additional moment  
16 on that?

17 You know, in 1977, when I ran the first time,  
18 I got 48 percent of the vote. In 1981, I got 75  
19 percent of the vote. In 1985, I got 78 percent  
20 of the vote. Most of those people -- 78 percent  
21 is unheard, of, the largest in the history of the  
22 City, as was 75 before it.

23 Most of those people didn't do anything other  
24 than vote for me. Some of them, 18,000 of them,  
25 sent in money.

1  
2 I looked at your charts. I am rather pleased  
3 with the chart that you did on me as it relates to  
4 the number of people who gave less than \$100, four  
5 percent. I think that's unheard of. I mean, that  
6 large a percentage of the total, certainly different  
7 than some of the other charts that you have. But,  
8 even those who gave more, I assume that they gave  
9 because they thought that I would be a good mayor.

10 The problem becomes this: You are perceived  
11 as pro-environment, and you give money because you  
12 are pro-environment, then you're against Westway.  
13 Everybody applauds, terrific.

14 You know, eleven years ago co-ops that are  
15 now selling for millions of dollars in the City of  
16 New York were selling for \$100,000 or less on  
17 Central Park West. Supposing those people decided  
18 at that time that they liked the fact that I thought  
19 the City should grow and they wanted me to be Mayor.  
20 Should they be excoriated?

21 MR. BIENSTOCK: I think you and I would agree,  
22 Mr. Mayor, we're talking about perceptions?

23 MAYOR KOCH: I agree, perceptions.

24 MR. BIENSTOCK: And let me try to --

25 MAYOR KOCH: That's why I think Howard



1  
2 Rubenstein is getting out -- if this letter truly  
3 reflects his view, he probably doesn't want the  
4 heat of having to explain why he supports candidates.

5 MR. BIENSTOCK: Let me refer to testimony  
6 that Mr. Mandelker gave to us in March concerning  
7 the importance of the Dinner Committee.

8 The Dinner Committee, as we understand it now,  
9 is a list, a group of, primarily, your fundraisers?

10 MAYOR KOCH: Uh-huh.

11 MR. BIENSTOCK: My question to you is: Do  
12 you think that it's a good thing, creates a good  
13 appearance, or the possibility of the appearance  
14 of impropriety if you have lobbyists, major lobby-  
15 ists and major people, people who do a large amount  
16 of business with the City, on your Dinner Committee  
17 as your major fundraisers?

3 18 MAYOR KOCH: I don't think it has any im-  
19 propriety attached to it at all. Let's go through  
20 it.

21 My last Dinner Committee was Jim Robinson and  
22 Evelyn Lawton. They're both very wealthy people and  
23 prestigious, and they do a lot of fundraising for  
24 charities.

25 The fact is, Evelyn Lawton said to me, "You've

1  
2 got the wrong person, because I'm now raising  
3 money," and she gave me the charities she was  
4 raising the money for.

5 I said, "Evelyn, I want you." She said,  
6 "I think you're doing a good job and I will do it  
7 for you."

8 Why do you take people like that, or Phyllis  
9 Wagner, or Irving Schneider? It's because these  
10 are rich people and they know a lot of rich people.  
11 Rich people make contributions to charities and  
12 campaigns. And you know what they do? They make  
13 a contribution, they call somebody else up, and  
14 they say, won't you contribute to this fund, chari-  
15 ty, or candidate, and then they expect to be called  
16 by the person who they solicited.

17 So, that's why you call these people, because  
18 there's no question but that they know other people  
19 who can make contributions of whatever, most of  
20 them, most of the time, and you have your charity.  
21 And i'm not going to, you know, try to break it  
22 down.

23 But, the contributions from rich people  
24 range from \$1,000 to \$5,000 to sometimes the  
25 maximum, but no longer the maximum, \$50,000. It

1  
2 will be \$3,000.

3 MR. BIENSTOCK: Let me refer you to Exhibit  
4 24 in the book in front of you, which contains in it  
5 a list of your Dinner Meeting.

6 MAYOR KOCH: Yes.

7 MR. BIENSTOCK: I want to ask you --

8 MAYOR KOCH: Gee, I hope I can put that one  
9 together next year.

10 MR. BIENSTOCK: I want to ask you a question  
11 about people doing business with the City, large  
12 amounts of business with the City, who may or may  
13 not be rich people as major fundraisers.

14 MAYOR KOCH: Yes.

15 MR. BIENSTOCK: Particularly, there are a  
16 number of people who do business. Mr. Mendick  
17 is on that list, and we referred to him before.

18 I want to ask you if you know who Joseph  
19 Pinto is?

20 MAYOR KOCH: Joseph Pinto? Not offhand.  
21 Can you give me some --

22 MR. BIENSTOCK: He's a Vice President of  
23 Emnuel Elkin Company.

24 MAYOR KOCH: Emanuel Elkin Company? The  
25 name doesn't strike a bell to me.

1  
2 MR. BIENSTOCK: Our records show, while Mr.  
3 Pinto did not contribute to that dinner, he suc-  
4 cessfully solicited the officers and consultants  
5 of Emanuel Elkin Company to the tune of \$8,000.

6 MAYOR KOCH: What's wrong with that?

7 MR. BIENSTOCK: Well, I'm not suggesting  
8 there is. I'm seeking your view on this.

9 The Emanuel Elkin Company, over the last  
10 year, has been before the Board of Estimate for  
11 road repair contracts at least five times, and  
12 their contracts are on the order of a million  
13 dollars apiece.

14 MAYOR KOCH: Okay, my response.

15 I never heard of Emanuel Elkin Company,  
16 to the best of my knowledge, until you just  
17 mentioned it. I'd probably know Mr. Pinto if I  
18 saw him, but his name means nothing to me.

19 So, the real question, and it's a real prob-  
20 lem, and I don't have the answer to it, and maybe  
21 you gentlemen and ladies do, as to whether or not  
22 you will exclude people who do business with  
23 government from being involved in the political  
24 system. Maybe they should be. I think it violates  
25 the First amendment, but maybe they should be.

1  
2 Maybe if you're doing business with government,  
3 you should be simply excluded from making any  
4 contributions. Maybe.

5 I want to tell you that on the Board of  
6 Estimate on some days there are hundreds of items,  
7 not just ten, twenty, but hundreds. Shall all of  
8 those people be excluded? I don't know. I am  
9 going to --

10 MR. BIENSTOCK: Mr. Mayor --

11 MAYOR KOCH: I'd like your advise on that.

12 MR. BIENSTOCK: -- our research indicates  
13 that several states and, indeed, the Federal  
14 Government itself, does have such a solution, and  
15 it's really a question of us soliciting your view  
16 as to whether or not it would be a good thing.

17 MAYOR KOCH: Well, my feeling is, being in  
18 government -- and I've just told you, I've never  
19 heard of this company, and you just told me that  
20 they appear before the Board of Estimate. Okay.  
21 There's no question in my mind that their appear-  
22 ing before the Board of Estimate didn't impact on  
23 my decision, and I doubt that it impacted on the  
24 decision of anyone who voted on whatever it is,  
25 you say, road repairs. I mean, I doubt that it had

any impact.

Shall those people be excluded from the political process of trying to elect people who they think are good for the City? Ideologically, politically, whatever, I don't know. My own feeling is they should not be excluded, but I am willing to be convinced.

MR. BIENSTOCK: Mr. Mayor, I want to ask you some questions concerning the Board of Estimate, which you just alluded to.

MAYOR KOCH: Yes.

MR. BIENSTOCK: You mentioned in your written statement that the Board of Estimate has tried to improve the Goodman Amendment through Resolution 333.

Are you aware of the state of record keeping of the Board of Estimate?

MAYOR KOCH: It's probably lousy. I heard the Chairman say it was terrible, and I also heard him say that we're trying to upgrade it, and you can be sure if money is the issue, that whatever I can do as Mayor to provide that money, I will.

The original Goodman Law, I am told by the lawyers, was terribly written and had to be improved

1  
2 upon by the City. First, that was under Fritz  
3 Schwarz, I believe, and then, now currently under  
4 Peter Zimroth. I believe that they have taken  
5 major measures, and maybe they can tell you what  
6 it is, to make it possible to do the monitoring  
7 we will want, and that the original Goodman Law  
8 was deficient on.

9 MR. BIENSTOCK: Well, I do want to ask Mr.  
10 Mulhearn, who I think is the appropriate person,  
11 a few questions about that, and that relates to  
12 computerization of the records at the Board of  
13 Estimate.

14 You're familiar, I understand, with that  
15 subject?

16 MR. MULHEARN: Yes.

17 MR. BIENSTOCK: And I take it you're also  
18 familiar with Mr. Meekins' budget request of the  
19 last few weeks which relate, originally, to  
20 \$2 million for computerization of the calendar  
21 of the four 333 affidavits, which request, at  
22 least according to Mr. Meekins, has not been  
23 acted upon favorably and has caused him to reduce  
24 his request to \$900,000?

25 Now, that may or may not be a fair

1  
2 characterization of what has happened, and I'd be  
3 interested in your views on that, and I'd also be  
4 interested in knowing whether or not we can expect  
5 a commitment from your offices for support of some  
6 substantial budget request for the purpose of  
7 computerizing those records, because -- well, let  
8 me digress for the second, if I will, to tell you  
9 that our staff has been coding through those records  
10 and we cannot get answers to the simplest questions,  
11 like too many times in the last five years has so  
12 and so had an application before the Board of  
13 Estimate, how many variances have been sought, how  
14 many tax abatements have been issued, to whom, what  
15 were the votes on the series of tax abatements.

16 So, we view the record keeping currently at  
17 the Board, and we're now two years out from the  
18 passage of the Goodman Amendment, as essentially  
19 rendering the enforcement of that amendment impossible  
20 at this point.

21 I would be interested in your view.

22 MR. MULHEARN: First of all, let's start with  
23 the Goodman Law itself. The Goodman Law did not  
24 require any record keeping at the Board of Estimate,  
25 at lest the way I read it, except to the extent that



1  
2 if someone was coming before the Board who had  
3 given in excess of \$3,000, they had to declare  
4 that they had done that, and there had to be a  
5 refund situation, and the Board, the Secretary of  
6 the Board of Estimate had to publish that name.

7 The Goodman Law was passed, as you well know,  
8 in late session in 1986. We have proposed many  
9 reform measures, campaign finance reform measures,  
10 which did not pass the Senate, the Republican-  
11 controlled Senate. This was the only measure that  
12 came out of the Senate. We felt it was poorly  
13 drafted, but it was the best they could give us.

14 We sat down with the Corporation Counsel's  
15 Office to look at exactly what the law entailed.  
16 We had a number of troubling questions; what do  
17 we do with the law? We didn't want to be in a  
18 situation, that is, the Corporation Counsel's  
19 Office, our office felt we didn't want to put the  
20 members of the Board of Estimate in a situation  
21 similar to the situation they're in with regard  
22 to corporate contributions.

23 As you know, corporate contributions are  
24 kept at \$5,000 in the aggregate for all campaigns  
25 in the State. You might well receive a \$1,000

1 from some corporation, not knowing that that  
2 corporation has given \$10,000 elsewhere in the  
3 State, and be publicly embarrassed when somebody  
4 says, "You've taken a contribution in excess of  
5 this corporation's limitation under the law."  
6 There's no way the candidate could know that, unless  
7 the corporation told that candidate, and, in fact,  
8 when the corporation gave the contribution, it  
9 might well be a legal contribution, and then they  
10 go on to contribute to other candidates and there's  
11 a problem.  
12

13 Similarly, with the Goodman Law, there's  
14 a situation where the people who are on the Board of  
15 Estimate might be in a fundraising situation and  
16 not know whether or not a particular individual  
17 had business before the Board. The Goodman Law  
18 defines the people who had business before the  
19 Board down to 5 percent shareholders, officers of  
20 companies, partners, so forth and so on.

21 So, that's a broad list of people and someone  
22 may well not know if they're a limited partner in  
23 some particular partnership that had an applica-  
24 tion before the Board of Estimate on calendars  
25 that have hundreds of items.

1  
2 So, the question was, how do we -- quite  
3 honestly, it was not as much geared for its public  
4 informationas it was putting the Board members in  
5 a position to know, to check whether or not, if  
6 they received a contribution in excess of \$3,000,  
7 whether a particular individual was in violation  
8 of the Goodman Law.

9 So, after the law was passed, we sat down,  
10 we looked at it. There was a meeting held with  
11 the members of the Board of Estimate to determine  
12 what cause of action should be taken. We decided  
13 to move to this system of devising a form that  
14 would have to be submitted with every matter that  
15 came before the Board of Estimate, which would  
16 indicate all those people who were so defined  
17 by the Goodman Law as having been before the Board  
18 of Estimate.

19 That form was devised. It was distributed  
20 to all the agencies. Bill Howell, who is our  
21 representative to the Board of Estimate, held  
22 briefings with the agency representatives who  
23 come before the Board of Estimate, and that was  
24 put into place, and we targeted, I think, the  
25 November 20th Board of Estimate meeting.

1  
2 Now, again, this was an extension on the  
3 part of the Board. It was not required by the  
4 law. The reason we targeted the November 20th  
5 meeting was that all these things had to be done  
6 in advance of that calendar, in order to give the  
7 information.

8 MR. BIENSTOCK: November 20th of what year?

9 MR. MULHEARN: 1986.

10 At the same time, we developed a system  
11 whereby the Secretary of the Board would publish  
12 the names that were on these forms in the City  
13 Record. We thought it would be helpful to com-  
14 puterize those, create a data base, and computerize  
15 these names, as well, so that if a particular member  
16 of the Board wanted to check, they could get into  
17 a computer data base, and it would be easier for  
18 them to determine whether or not somebody had had  
19 business before the Board.

20 To do that, I had two other deals, actually,  
21 with the veteran community. I had come in contact  
22 with a fellow named Bob Tachik, who is with the  
23 City University Computer Center, and they had of-  
24 fered their assistance to the City, if the right  
25 project came up, where they could come in and take

1  
2 a look and see if they could develop computer  
3 programming. So we asked them to come in, and  
4 they agreed to do it.

5 We put them in touch with the Office of  
6 Computer -- OCPC, Office of Computer Plans and  
7 Projects, and they went -- the City University and  
8 OCPC, along with a technique and staff, went ahead  
9 and developed their computer program and put it in  
10 place in the Board's office.

11 I have since learned, because we had -- the  
12 next time this really came up was in a discussion  
13 a couple of months ago, actually, with Tom O'Keefe  
14 from the Comptroller's Office. We learned that at  
15 least one agency was interpreting what we were ask-  
16 ing for on the form. We said, list all partners,  
17 and they weren't listing the partners.

18 So, we put together a meeting of all the  
19 members, the representatives of the members of the  
20 Board of Estimate, and we asked the Secretary of  
21 the Board to brief us on the status of the system,  
22 and what was in place, and so forth and so on.

23 We learned at that time that he had brought  
24 on staff a fellow named Andrew Cooper from HPD in  
25 1987.

1  
2 told by Andrew Cooper that they had a plan. They  
3 said the system was inadequate and they had a  
4 three-phased plan to make it what they wanted to get.

5 MR. BIENSTOCK: You are familiar with the  
6 budget requests?

7 MR. MULHEARN: Yes. But when you direct that  
8 question to me, I have nothing to do with the  
9 budget program. Ted Meekins didn't call me with  
10 regard to his budget request. I don't know how he  
11 made that budget request, through whom, and what  
12 presentation he made. I can't give you any informa-  
13 tion with regard to 2 million versus 900,000.

14 MR. BIENSTOCK: I am running out of time,  
15 so I think we'll have to consult after this hearing  
16 about that subject.

17 MAYOR KOCH: I can give you an assurance that  
18 whatever is required to do the computer analysis  
19 that's within my power, which is to propose and  
20 then try to get others to dispose, I will do.

21 MR. BIENSTOCK: Thank you. I want to ask you  
22 two short questions about the -- hopefully, short  
23 questions about the Funding Law, two provisions,  
24 both of which were not in Mr. Zimroth's and Your  
25 Honor's original proposal.

One relates to how money raised prior to the effective date of the law, which would be referred to as war chest, is dealt with.

In your original proposal, our understanding is that that money could be spent to a certain extent, but could not be used for either meeting the threshold for public funding or be matched.

The Bill that came out of the City Council treats war chests differently. It allows, to a certain extent, public funds to match money raised under the old system. I understand that you signed that Bill.

My question is whether you support that notion of matching public funds?

MAYOR KOCH: I support it by way of compromise, and I will give you the reason given to me by the City Council.

They said that members of the Council are by far more limited than City-wide candidates in going to people to get contributions, and that it would place them at a great disadvantage if they couldn't use the money for matching purposes.

I mean, they take money in the year before, it doesn't go for matching. Those people have been

1  
2 exhausted, because the amount of money that they  
3 give goes towards the total that they can give,  
4 and the pool from which they can obtain additional  
5 monies for matching purposes is very limited.  
6 That was their rationale.

7 By way of compromise, we gave in.

8 MR. BIENSTOCK: Do you have a position on  
9 what you're prepared to do with what I will  
10 neutrally refer to as your war chest?

11 MAYOR KOCH: Whatever the law allows, nothing  
12 more than what the law allows.

13 MR. BIENSTOCK: Let me ask you a question  
14 about another provision that was not in your origin-  
15 al proposal, and that's a provision which allows  
16 unlimited contributions of unlimited amount to  
17 retire a debt in existence at the date, at the  
18 effective date of the law.

19 Do you have a view as to the merits of that  
20 provision?

21 MAYOR KOCH: I don't have a view. I assume  
22 it was part of the compromise. I don't know if  
23 Peter --

24 MR. BIENSTOCK: Are you familiar with the  
25 legislative history of that, or is Mr. Zimroth



1  
2 familiar?

3 MAYOR KOCH: I'm not familiar with that  
4 particular history.

5 MR. ZIMROTH: There's not much more to say  
6 than this was in our original proposal. It was  
7 something presented to us, something needed to  
8 pass the law, and the argument was that these were  
9 campaigns that were not, at the time, subject to  
10 these limitations and, therefore, should not -- if  
11 you were retiring a debt, it shouldn't be subject  
12 to those limitations.

13 MR. BIENSTOCK: Do you know who many people  
14 that provision applies to?

15 MR. ZIMROTH: No.

16 MAYOR KOCH: Just to cap it, we don't think  
17 that law is perfect. We think the one we proposed  
18 is far better, but that's not the way the legisla-  
19 tion comes about, particularly controversial  
20 legislation, which didn't have a majority to begin  
21 with. That majority was put together by Peter  
22 Vallone, to his great credit. I don't think he's  
23 given enough credit for that.

24 Part of his putting together -- that was not  
25 a unanimously -- I don't think it was --

1  
2 MR. BIENSTOCK: 24 to 9.

3 MR. ZIMROTH: That really doesn't accurately  
4 reflect the opposition.

5 MAYOR KOCH: He didn't have a majority to  
6 begin with. He had to engage in compromises.

7 Our hope is -- first, the war chest, that  
8 will be out of the way. It will be in the election  
9 next year. Our hope is that, as a result of what  
10 this Commission does by regulation on its own,  
11 they'll cure some of the things that should be  
12 cured, and that if they don't have the authority,  
13 they'll make recommendations which will have such  
14 solemnity that they cannot be rejected by the  
15 Council.

16 MR. BIENSTOCK: My last question relates to  
17 that. That is, as I understand the budget request  
18 for that Commission, it involves \$28 million for  
19 the public funding aspect of it, and an additional  
20 amount, which I've been told is in the order of  
21 \$270,000 to \$300,000 for the administration of it,  
22 and the law requires a certain degree unspecified  
23 of computerization.

24 My question is: Is \$300,000 going to get  
25 any computerization or the adequate computerization

done?

MAYOR KOCH: I'll go further than that. I'm not sure I'm going to be able to resist the City Council's and Board of Estimate's requests that because they have to come up with \$150 million to avoid a real estate tax increase, that they shouldn't -- I say "they" -- be able to defer some of these expenses, because it's not going to be used this year, to put it into the next year. We're resisting that. I don't know that I'll be successful.

MR. BIENSTOCK: So, some of the \$28 million will be in jeopardy?

MAYOR KOCH: If I had to venture a guess, I would say is, not will be. It's going to be very ahrd to resist the Board of Estimate and City Council when they say, we want to take a substantial portion of this \$28 million not now used this year, and we'll put it in next year, and we'll use it this year to avoid a real estate tax. It's going to be very hard to resist it. We are at this moment trying to resist it.

MR. BIENSTOCK: What about the administration of the Board? You have to start that; right?

1  
2 MAYOR KOCH: Well, I'm convinced we'll get  
3 the administration going.

4 MR. BIENSTOCK: Mr. Chairman, I have no  
5 further questions.

6 I want to thank you, Mr. Mayor, for your  
7 indulgence.

8 MAYOR KOCH: Thank you.

9 THE CHAIRMAN: Thank you very much.

10 I'd like to just engage in conversation just  
11 in one or two areas thta you touched on.

12 One is, you make clear in your prepared  
13 statement that you would support additional  
14 strenthening of our Campaign Financing Laws. People  
15 are convinced the strenthening of that is desirable.

16 There's a provision that one finds in a  
17 number of State laws, to which Mr. Bienstock made  
18 reference, that prohibit a public official from  
19 soliciting those who do business with government  
20 or who have a contract that might be either under  
21 consideration or in the process of performance.

22 Is that kind of provision something that you  
23 think we ought to give serious consideration to?

24 MAYOR KOCH: I think the Charter Commission  
25 is putting something on the ballot which exempts

1 the publicly elected official -- I mean -- my  
2 solicitation, or those in public office -- I tell  
3 you, I come to meetings that other people have  
4 called of potential donors. Is it a solicitation  
5 violative of what you're suggesting if I get up  
6 and say, "I hope you'll help me," and in that room  
7 happen to be people who are doing business with the  
8 City of New York and are not otherwise barred by  
9 law from participating in the political process and  
10 making contributions? Have I violated the law,  
11 if what you're suggesting becomes the law, by  
12 simply standing up and taking their questions and  
13 advocating my philosophy? That's the danger.

14  
15 But that's why I think maybe the referendum  
16 provision, which exempts the elected official, but  
17 bars those who are not elected, from participating  
18 in the solicitation -- I will be supporting the  
19 Charter Reform Provision.

20 THE CHAIRMAN: One area that I've commented  
21 on, personally, but not the Commission, has to do  
22 with the war chest provision, that those provisions  
23 of the new law do seem to provide an advantage to  
24 incumbents that challengers would not have.

25 Do you see those provisions as beyond the

1 point of further consideration, in terms of reform?

2  
3 MAYOR KOCH: For this year?

4 THE CHAIRMAN: For the next election.

5 MAYOR KOCH: No. For the next election, I  
6 believe it's quite possible that the Commission we  
7 have appointed -- I think everybody agrees it's a  
8 very high level, prestigious Commission, and people  
9 have a lot of respect -- if they were to advocate  
10 the elimination of that kind of funding, I believe  
11 we'd be able to get it through the City Council,  
12 and I would advocate that.

13 THE CHAIRMAN: In response to Peter Bienstock,  
14 you commented with reference to that part of a war  
15 chest. The staff has provided me with this informa-  
16 tion, that the war chest amount of money that is  
17 available to you is in the area of maybe \$700,000,  
18 which --

19 MAYOR KOCH: I don't think so.

20 THE CHAIRMAN: My information may be incorrect  
21 -- of which iof that \$700,000 a small portion,  
22 maybe 100,00, roughly, can be used for matching  
23 gift purposes, which would then leave 600,000 or  
24 so that couldn't be used in terms of the 1989  
25 campaign under the current law. That some

1  
2 disposition would have to be made of it at some  
3 point.

4 You indicated in your response that you  
5 would, obviously, do what was legal.

6 Have you ever given any thought as to arrang-  
7 ing possibilities with that extra money that can  
8 be used?

9 MAYOR KOCH: What we might do with that money,  
10 if it wasn't used within the time frame allowed?  
11 Yes, I would give it to a City charity.

12 THE CHAIRMAN: I ask your counsel, was the  
13 information that was communicated to me substan-  
14 tially accurate, according to your information?

15 MR. MANDELKER: I think it's substantially  
16 accurate. I think you'll find, though, that we  
17 have used some of this money for non-campaign  
18 purposes, but not City purposes.

19 For instance, the Mayor had taken about  
20 \$30,000 worth of public-service type of ads about  
21 education and drugs, and those were paid for out  
22 of our campaign treasury. Those are not, technical-  
23 ly, campaign expenses, and I think that we would  
24 envision using the monies for something like that.

25 MAYOR KOCH: Just to be clear about it, you

1  
2 said if we had exhausted the time frame within which  
3 it could be used, what would we do with it.

4 The law prohibits you from using it for your-  
5 self, thank God, and I think it gives -- my recol-  
6 lection is, and somewhere in the State law, it states  
7 that one of the places you can place campaign funds  
8 that are not used is into some charity. That's what  
9 I would do.

10 What Mr. Mdnelker is referring to is that in  
11 an attempt to lobby with the State Legislature to  
12 give us our fair share of education aid, which they,  
13 regrettably, didn't agree with, we spent in ads  
14 taken in every newspaper about \$32,000, maybe even  
15 a little more, and that came out of the campaign  
16 funding.

17 THE CHAIRMAN: Can I make a suggestion, as a  
18 citizen?

19 Since there are other officeholders with  
20 substantial war chest amounts, including the  
21 Governor and other City officials, wouldn't it make  
22 an excellent statement for you to take the lead,  
23 in terms of what you plan to do with your war chest  
24 amount over and above what is used within authorized  
25 numbers during the next campaign?



1  
2 MAYOR KOCH: You mean for me to say in  
3 some other forum what I've said here?

4 THE CHAIRMAN: Maybe even a more specific  
5 statement as to disposition, what you think you  
6 might make of the war chest amounts that aren't  
7 used, in connection with the 1989 campaign.

8 MAYOR KOCH: I just want to be careful about  
9 this. Monies that are collected for campaign  
10 purposes that cannot be used for the campaign,  
11 because there's some time limitation, and you have  
12 an option as to how to dispose of them -- I would,  
13 and I would say it elsewhere, advocate that my  
14 favorite charity happens to be Meals On Wheels,  
15 so that's where I'll give those monies.

16 THE CHAIRMAN: Thank you very much.

17 Judge Meyer.

18 COMM. MEYER: There's a good deal of confusion,  
19 at least at this point, as to the right of the  
20 corporation to contribute through subsidiaries.

21 The Court of Appeals has a rule which re-  
22 quires, when a brief is filed, the corporation file  
23 it with a statement of all the subsidiaries of  
24 that corporation that were corporations in which  
25 it owns a given percentage of the stock. Whether

1  
2 or not control, I don't recall.

3 Is there any reason why a similar requirement  
4 shouldn't be imposed both with respect to contribu-  
5 tors to the campaigns and with respect to people  
6 who do business with the Board of Estimate?

7 MAYOR KOCH: I would support such a requirement  
8 and would urge the new Commission, if it already  
9 isn't in the law, to require it.

10 COMMISSIONER MEYER: Perhaps a little more  
11 difficult question would be: With respect to the  
12 running of campaign dinners, the Canons of Judicial  
13 Ethics indicate that a judge who is running a  
14 campaign, who is ill put in the position where he  
15 has to raise money is not to know who makes a  
16 contribution to his campaign and not be present  
17 at any function at which funds are raised.

18 Is it feasible to impose such a limitation  
19 with respect to elected legislative officers?

20 MAYOR KOCH: No, I don't think so. I think  
21 that it's perfectly appropriate, unless someone  
22 violates the law and commits a criminal act, that  
23 you accept the fact that in our system you can  
24 solicit funding directly by -- I don't think it's  
25 appropriate to do it on a one-to-one basis,

1 particularly if you're in high public office, and  
2 just by the sheer weight of your title and whatever  
3 it is you represent, you're intimidating the guy  
4 across the luncheon table. I don't think that's  
5 appropriate.  
6

7 But, to stand up in a crowd, where there are  
8 25 or 50 people, and present yourself and take  
9 Q and A, I think that's very appropriate.

10 COMMISSIONER MEYER: I think there's a  
11 difference between what we're talking about. I  
12 don't think there's anything that stops a judge  
13 from answering questions to the extent that you can,  
14 ethics permitting. But when it comes time for the  
15 solicitation of funds to be made under formal cir-  
16 cumstances, you walk out of the room. The  
17 contributions would be to a Treasurer, and the  
18 report would be filed with the Treasurer, and the  
19 candidate, himself, would never know who had con-  
20 tributed to that campaign.

21 MAYOR KOCH: Your Honor, if a person sought  
22 to be devious and to violate either the law or the  
23 spirit, such a devious person would just get a copy  
24 of the file reports, and he would know exactly who  
25 had contributed. So, I don't think it serves a

1  
2 purpose. You either have an honest official, who  
3 will not be seduced by the campaign contribution,  
4 or you will have a dishonest official, and you say,  
5 well, you're never going to be told directly by  
6 your campaign who made the contributions, but,  
7 nevertheless, it's a matter of public filing and,  
8 in fact, if it's a large sum of money, it will ap-  
9 pear in the press anyway.

10 COMMISSIONER MEYER: Isn't there some problem  
11 here with appearances as against whether or not  
12 there's actual hanky-panky?

13 MAYOR KOCH: I don't think that, as it relates  
14 to priority and appearances, that a candidate,  
15 knowing who is supporting him -- let me ask you this,  
16 if I may: What is the difference between your  
17 knowing who's working in your campaign, who's  
18 working 24 hours a day for you and doing a perfect  
19 job, as opposed to knowing someone who's not work-  
20 ing in your campaign, but sent you a check? Aren't  
21 they equal?

22 COMMISSIONER MEYER: Not necessarily.

23 MAYOR KOCH: Why?

24 COMMISSIONER MEYER: It depends upon the  
25 amount involved, et cetera. But, there is some

1  
2 problem there, there's no question about that.

3 THE CHAIRMAN: Thank you.

4 Commissioner Hynes?

5 COMMISSIONER HYNES: Mr. Mayor, I was just  
6 wondering, has your campaign done any analysis in  
7 the last campaign that you ran for Mayor as to  
8 what percentage of the total contributions thta  
9 you received came from corporations or from part-  
10 nerships as opposed to individuals; do you know?

11 MAYOR KOCH: I have t turn to Mr. Mandelker.

12 MR. MANDELKER: We did not.

13 COMMISSIONER HYNES: Would it be your guess  
14 that more than 50 percent of the contributions were  
15 from businesses as opposed to individuals?

16 MR. MANDELKER: I wouldn't even hazard a  
17 guess. I don't know that that's so.

18 COMMISSIONER HYNES: Mr. Mayor, do I under-  
19 stand you correctly that it is your sense that  
20 businesses or corporations or partnerships who  
21 do business with the City should not be prohibited  
22 from making campaign contributions, but if you have  
23 the limitation of \$3,000, and you don't have the  
24 situations where subsidiaries or affiliates can  
25 make campaign contributions, that that should be

1  
2 satisfactory from a perception point of view?

3 MAYOR KOCH: If the total contribution that  
4 can be made by an individual or a corporation and  
5 its subsidiaries is capped at \$3,000, that -- I  
6 think that that's adequate protection for the  
7 public, and I would not otherwise prohibit con-  
8 tributions along the line of your question.

9 COMMISSIONER HYNES: Thank you.

10 THE CHAIRMAN: Commissioner Emery?

11 COMMISSIONER EMERY: Mr. Mayor, I wanted to  
12 ask you a number of questions about specific  
13 fundraising practices, especially given the fact  
14 that you've been very progressive since your years  
15 in Congress in advocating reform in this area.

16 As you pointed out in your opening statement,  
17 and as you pointed out in answering a number of  
18 questions today, in your first mayoralty, your  
19 first term, Peter Solomon was a Deputy Mayor or  
20 Economic Development. He served about three and a  
21 half years; is that correct?

22 MAYOR KOCH: I think so.

23 COMMISSIONER EMERY: In that capacity, he  
24 was the Chair of the commercial and Industrial  
25 Incentives Board, which, as I am sure you know,

gives millions and millions of dollars in tax abatements.

He was, also, I take it, responsible for making recommendations on zoning variances in some instances?

MAYOR KOCH: No, nobody makes recommendations on zoning variances. As far as I know, you make your application to the Board of Standards and Appeals, and there are no recommendations that come from the administration on zoning variances.

COMMISSIONER EMERY: In his capacity as Chair of the Industrial and Commercial Incentives Board, he recommended or he passed on a number of large tax abatements, millions and millions of dollars in tax abatements.

In 1980, I believe, he resigned from your term, from your--

MAYOR KOCH: From my administration.

COMMISSIONER EMERY: -- your administration --excuse me -- and he became your Finance Chairman in your '81 campaign?

MAYOR KOCH: Correct.

COMMISSIONER EMERY: And he raised money in that capacity, did he not?

1  
2 MAYOR KOCH: He did.

3 COMMISSIONER EMERY: And he raised money, in  
4 many instnces, did he not, from the very same  
5 people who he had passed on tax abatements.

6 Now, my question to you is, very simply:  
7 Given your progressive stance on these matters  
8 and your sensitivity to the appearance of relation-  
9 ships between actions of government and campaign  
10 contributions, did you set any rules with respect  
11 to him not raising money from people, himself,  
12 in other words, involving himself, from people on  
13 whose tax abatements they can rule?

14 MAYOR KOCH: The answer is no, I did not.  
15 I left everything to his good judgment.

16 He's an honorable man, and I gave him no  
17 particular sanctions.

18 I think there's a distinction between his  
19 raising money, if he were the Economic Deputy Mayor,  
20 and in that capacity, and I don't think he did that.

21 You're not suggesting that?

4 22 COMMISSIONER EMERY: You mean while he was  
23 Deputy Mayor? No, I am not suggesting that.

24 MAYOR KOCH: It was after he had left  
25 government. If you say that after someone leaves



1 government that somehow or other they are subject,  
2 either legally or morally, to a different standard,  
3 then you have to set forth the standard.  
4

5 Now, we could -- we have rules as to whether  
6 you can apply to the government in certain areas  
7 once you've been in government, and you may have  
8 limitations on terms of years as to whether you can  
9 work in a particular area, whether or not you can  
10 work in a campaign and solicit.

11 We could debate that, and I'm not going to say  
12 that you're wrong. I'm saying it's a matter that is  
13 certainly worth of discussions as to whether or not  
14 an impropriety may be perceived by someone, or undue  
15 pressure. I doubt that Peter would have engaged in  
16 any impropriety or undue pressure, but it is an  
17 issue, sure.

18 COMMISSIONER EMERY: Let me ask you, for  
19 example, the other way around, and then I'll ask you  
20 general questions about both.

21 In 1982, I think Peter Solomon also served  
22 as your Finance Chairman in your '82 campaign.

23 MAYOR KOCH: Kenneth Lipper did.

24 COMMISSIONER EMERY: But there was a Co-Finance  
25 Chairman. I'm talking about the '82 campaign for

Governor.

MAYOR KOCH: Kenneth Lipper was the Chairman.

COMMISSIONER EMERY: In the '82 campaign,  
Ken Lipper?

He was your Campaign Deputy Finance Chairman  
or Finance Chairman?

MAYOR KOCH: I think he was the Finance  
Chairman.

COMMISSIONER EMERY: And then, shortly  
thereafter, he came into your administration and  
took over Peter Solomon's position?

MAYOR KOCH: That's right.

Is there something wrong with that?

COMMISSIONER EMERY: No, I am not suggesting  
there's anything wrong. I'm just asking you  
questions.

I take it in his position as Finance Chairman  
of the campaign, he raised money from people who  
later on, in his position as Deputy Mayor for  
Economic Development, he then passed on tax abate-  
ments in his position as Chairperson of the  
Incentives Board?

MAYOR KOCH: That's a point to be considered,  
sure. I had not considered that.

1  
2 COMMISSIONER EMERY: Now, I guess my question  
3 is: Thinking about the situation where your Finance  
4 Chairman, whether it be Lipper or Solomon or any  
5 other person, then either prior to or subsequently  
6 holds an official position passing on very major  
7 discretionary judgments, millions and millions of  
8 dollars, and that person is asking the very same  
9 people, don't you think it's a real problem, given  
10 their highest moral, ethical standards?

11 MAYOR KOCH: I won't dispute that. Let me just,  
12 if I may, respond.

13 I cannot argue that it's a consideration. I  
14 want to tell you how hard it is to get someone to  
15 be Deputy Mayor for Economic Affairs in the City of  
16 New York. You want somebody who has made a lot of  
17 money themselves, so they will make a lot of money  
18 for the City. There are very few of those people  
19 who want to come in and either serve at whatever  
20 the salary is, \$80,000 at that time, maybe, or  
21 \$99,000 today, and to give up, as they must, a lot  
22 of financial concerns.

23 I mean, they have to go through hell to get  
24 cleared to be able to take the position, because  
25 of their heretofore outside activities.

1  
2 So, I felt very lucky to get a really first-  
3 rate economic hot-shot, which is the way I would  
4 refer to Ken Lipper, to come into government, and  
5 I think he had a number of options in terms of other  
6 offers that were made by other governments at that  
7 time, and I was happy that he came to me.

8 But, this is a consideration which hadn't  
9 occurred to me, which maybe people would have felt  
10 -- maybe he would have felt, is what you're saying,  
11 beholden. That's what I think your implication is.

12 COMMISSIONER EMERY: For the various people  
13 who had either gotten tax abatements or who were  
14 about to get, wanted tax abatements.

15 MAYOR KOCH: Well, they wouldn't say he's not  
16 asking me to give money in order to get the tax  
17 abatement.

18 Hold it, Mr. Emery. They didn't know he was  
19 going to become a Deputy Mayor on Economic Affairs.

20 COMMISSIONER EMERY: Well, they might very  
21 well expect him to become part of your administration.

22 MAYOR KOCH: There were lots of people who  
23 worked with me. Irving Schneider, Jim Robinson,  
24 they didn't become part of my administration.

25 COMMISSIONER EMERY: I'm talking about these

cases, not those.

In Solomon's case, he had already passed on it. We didn't know whether after the campaign he would go right back into the same job. But, put that aside.

In the case of Mr. Lipper, I take it -- I am asking you this question, because I don't know the answer in any way, shape or form. After he resigned the campaign and joined your administration, did he continue to raise money in any way during the administration?

MAYOR KOCH: I don't think so, but I have no way --

COMMISSIONER EMERY: He was the Commissioner at the time?

MAYOR KOCH: He was not a Commissioner. He was the Deputy Mayor on Economic Development. I do not believe he was involved in fundraising after he came into the government.

COMMISSIONER EMERY: And, of course, at some point subsequently, he started -- he resigned and started his own fundraising, he ran for City Council President?

MAYOR KOCH: He did.

1  
2 COMMISSIONER EMERY: Now, on another matter --

3 MAYOR KOCH: By the way, it was, you know,  
4 mutual. I said to him, when he was thinking of  
5 running, "You cannot," and he understood that it  
6 was not imposing -- he cannot run for a public  
7 office and remain in government. We don't allow  
8 that for our managers, and we don't allow it for  
9 our highest appointed officials.

10 COMMISSIONER EMERY: Your Honor, do you  
11 remember at all the circumstances of the resignation  
12 of a -- the Chair of your Advisory Commission on  
13 Cultural Affairs, William Barnabas McHenry?

14 MAYOR KOCH: I remember his leaving, yes.

15 COMMISSIONER EMERY: Did that at all have any-  
16 thing to do with campaign contributions?

17 MAYOR KOCH: I don't think so.

18 COMMISSIONER EMERY: You have no recollection  
19 of that?

20 MAYOR KOCH: No.

21 COMMISSIONER EMERY: Let me ask you a couple  
22 of more quick questions.

23 With respect to August of 1985, I believe  
24 that, if I am not mistaken, you attended a fund-  
25 raiser in the Rainbow Room of the carting industry.

1  
2 Carting industry representatives were in the Rainbow  
3 Room?

4 MAYOR KOCH: Yes.

5 COMMISSIONER EMERY: At that fundraiser, two  
6 of your Commissioners, Mr. Angelo Aponte and Mr.  
7 Norman Steisel, were there and they gave presentations.

8 What I am asking you is: Do you think it's  
9 appropriate for Commissioners to raise money from  
10 the very people that they regulate?

11 MAYOR KOCH: Definitely not appropriate. It's  
12 wrong, wrong to do.

13 Mr. Mandelker says he can supplement it.

14 MR. MANDELKER: In fact, I met with a number  
15 of Commissioners during the 1985 campaign to spe-  
16 cifically tell them that the policy of the campaign  
17 was not to have them involved in the solicitation  
18 of contributions, not only from industries which  
19 they might regulate or to which they may grant or  
20 deny applications, but not to solicit contributions  
21 at all, period.

22 COMMISSIONER EMERY: But I take it that this  
23 event was an exception to that?

24 MR. MANDELKER: I'm not familiar with the  
25 event, and I'm not familiar with the presentations

1  
2 that the two gentlemen made, and I also am not sure  
3 that in 1985 -- was Norman Steisel still with the  
4 administration in 1985?

5 COMMISSIONER EMERY: I believe he was at the  
6 event in the Rainbow Room.

7 My understanding was the Mayor was there and  
8 the two Commissioners were there. After he left,  
9 they made representations concerning raising money  
10 from the carting industry.

11 MR. MANDELKER: It's very difficult for me to  
12 believe, knowing angelo Aponte, that he would have  
13 done such a thing.

14 As far as Norman, I don't know if he was in  
15 the administration or not in the administration.  
16 I don't have firsthand knowledge of that.

17 I just know what our operating procedure was,  
18 and I know about the conversation that I had with  
19 Angelo Aponte, and I know the type of person he is.

20 COMMISSIONER EMERY: Let me ask you one quick  
21 final question, and that is: I take it there was  
22 a DOI investigation in '86 of Jay Turoff, who, at  
23 that time, was TLC Commissioner, and his activities,  
24 to some degree, in raising money, but, primarily, in  
25 soliciting in kind contributions from the taxi



1  
2 industry on the day of the election. That is,  
3 ferrying, bringing elderly and handicapped voters  
4 in, and he was like Danny DeVito sitting in the  
5 actual taxi office sending out cabs.

6 Now, if that's incorrect, I would like to  
7 be corrected, but --

8 MR. MANDELKER: I think you mixed up two  
9 separate issues.

10 COMMISSIONER EMERY: Tell me in what way.

11 MR. MANDELKER: Issue number one, is a  
12 Commissioner on his time off able to work in a  
13 campaign and to act as a volunteer dispatcher of  
14 cabs? Volunteer dispatcher means you call up and  
15 say, company so and so, send a cab to such and such  
16 a place to pick up a voter. That's one issue.

17 A separate issue is, did Jay Turoff solicit  
18 that kind of participation from cabs in the  
19 Election Day service.

20 It had subsequently turned out that he did.  
21 That was in direct violation of City policy and  
22 campaign policy. He was not supposed to do that  
23 and he did it. That's just -- that was his person-  
24 al act. That was not what we wanted.

25 COMMISSIONER EMERY: I guess then the

1  
2 question to the Mayor is simply that, I take it  
3 your position is that Commissioners should not be  
4 soliciting, as part of your campaign, from the  
5 industry they regulate?

6 MAYOR KOCH: Yes.

7 COMMISSIONER EMERY: But it's not something  
8 you heard?

9 MAYOR KOCH: You're absolutely correct in  
10 that statement.

11 COMMISSIONER EMERY: Thank you.

12 THE CHAIRMAN: Commissioner Magavern?

13 COMMISSIONER MAGAVERN: Mr. Mayor, I'd like  
14 to address my first question to you and your col-  
15 leagues at this table.

16 My question is: When the time came to de-  
17 termine, upon your voluntary campaign limitations,  
18 and then, again, when it came time to determine  
19 the content of the local law which limits campaign  
20 contributions -- maybe we ought to take them in  
21 order. Take first the voluntary limitations and  
22 take the most recent time you've set those  
23 limitations.

24 At that time, did it occur to any of you  
25 that there was a practice of corporations using

subsidiaries and affiliates in order to aggregate contributions from what, in effect, is a single business entity, and did you address that question in your own thinking?

MAYOR KOCH: When I set the \$2,000 limitation in the voluntary period, when we first put that into effect, the matter of subsidiaries was not considered, not considered.

COMMISSIONER MAGAVERN: Has it ever come to the attention of you and your colleagues, as a matter of policy in determining your own voluntary limitations?

MAYOR KOCH: Subsidiaries, up until the change in the law, wher i believe that subsidiaries should not be able to add to the contribution of the principal corporation -- subsidiaries were never discussed, as far as I know.

COMMISSIONER MAGAVERN: I take it you were aware of the practice of corporations breaking up contributions among affiliates and their subsidiaries?

MAYOR KOCH: Yes.

COMMISSIONER MAGAVERN: And the thought simply didn't occur to you?

MAYOR KOCH: It was legal.

MR. MANDELKER: May I just add something?

One of the reasons we never addressed this issue, since an individual could give five, ten, fifteen, twenty-five, \$50,000 -- the thought that somebody would go to a corporation and use five corporate entities to contribute \$25,000 as opposed to just contributing \$25,000 in his or her own name didn't seem to us to be a very pressing issue, and I remember, when I testified here last March, there was a pie chart describing the percentages of corporate contributions to individual contributions, and for the Mayor it was relatively small.

Now that the campaign contribution level has been lowered to \$3,000, the use of corporate affiliates and subsidiaries to get around that is a much more urgent problem. It was much less urgent when the limitation was \$50,000.

COMMISSIONER MAGAVERN: When you had your voluntary limitations, you had limitations as individuals, as well as corporations.

Were you concerned about the possibility that individuals, as well as corporations, might, in effect, aggregate contributions among a group of closely-related people?

1  
2 MAYOR KOCH: It was not the subject of  
3 discussion, as I can recall.

4 COMMISSIONER MAGAVERN: I will go to another  
5 subject, that is, the question of motives of  
6 contributors and the public perception of motives.

7 My concern is, as introduction to my question,  
8 is the public simply misinformed and naive if they  
9 are concerned to think that contributors may have  
10 a motive, other than pure friendship or pure  
11 altruism?

12 MAYOR KOCH: No.

13 COMMISSIONER MAGAVERN: More specifically,  
14 you have stated two kinds of motivation. On the  
15 one hand, there's the, in effect, the buying of  
16 votes or buying of decisions. You've said you  
17 don't believe that happens, not often, and you're  
18 not aware of cases of it.

19 You also, I think, have given instances of  
20 contributions motivated by pure friendship or  
21 pure altruism.

22 MAYOR KOCH: I gave you a third.

23 COMMISSIONER MAGAVERN: I was looking for a  
24 middle ground.

25 MAYOR KOCH: Which was to preclude hostility.

1  
2 Some people are afraid of hostility.

3 COMMISSIONER MAGAVERN: Can you elaborate on  
4 that?

5 MAYOR KOCH: Sure. I believe that lots of  
6 people contribute to candidates who are opposing  
7 one another, just so as to have in their head  
8 a level playing field, and they just make a contri-  
9 bution to Mr. X or Mr. Y, running for the same  
10 office. It's a subject -- I have the feeling  
11 that they have -- I cannot get to the heads of the  
12 people whom they're making the contributions to,  
13 as to whether, if they had not, it would have creat-  
14 ed hostility.

15 So, if I may say, from my point of view,  
16 knowing my relationship with Donald Trump is not  
17 the greatest -- there are two occasions when he has  
18 been very helpful to me in the past in terms of  
19 campaign support, and on one occasion I opposed his  
20 getting a tax abatement, which, ultimately, re-  
21 grettably, the Court of Appeals overruled us, and  
22 as a result of their decision, twenty or more  
23 million -- I even heard \$40 million -- and it's  
24 wrong. It's over. We're stuck with the courts.

25 I opposed him. He couldn't understand that.

1  
2 He called me up. He went and denounced the guy  
3 who was opposing him at that time, too, the Commis-  
4 sioner, Tony Gleidman. He went and hired Tony  
5 Gleidman after he left. Who knows, maybe to cure  
6 him (laughter).

7 So, that's that.

8 The second time Trump made a comment was  
9 after he wanted tax abatement for his west side  
10 property, to bring NBC in, and up until I said no,  
11 I was a great Mayor. Even the night before he  
12 received my letter, in which I said no, he said  
13 to those assembled, "One of the great Mayors."

14 The day I said no, which meant, I don't know,  
15 maybe a hundred million dollars -- I can't tell  
16 you exactly what it would have meant over what  
17 period of years -- from that day, he became enraged,  
18 because he had been a supporter of mine. This is  
19 what he said, as I recall, on television. He  
20 said, "Ed Koch does not help his friends."

21 Well, I hope that that's not totally true.  
22 I do not help my friends at government expense. I  
23 do help my friends, personally, but not through  
24 governmental action.

25 So, I just cited those two from my own personal

1  
2 history.

3 Now, how others act under these circumstances,  
4 I'm not able to say.

5 I want to make clear that Donald Trump was  
6 not engaging in any unethical act by seeking these  
7 tax abatements. I mean, he's a businessman. He  
8 thought he was entitled to it. I had to make a  
9 governmental decision. I'm not casting aspersions  
10 on him as it related to his request. But, I took  
11 a governmental action he didn't like, and he at-  
12 tacked me.

13 COMMISSIONER MAGAVERN: Would it be fair to  
14 conclude, in your opinion, contributors often  
15 contribute out of fear of incurring the hostility  
16 of people who will be making decisions affecting  
17 their business?

18 MAYOR KOCH: I don't know about often, but  
19 that some -- I think Mr. Zeckendorf has said  
20 something along those lines, about why he made  
21 contributions to some candidates.

22 COMMISSIONER MAGAVERN: Would it also be  
23 fair that, in your opinion, and in your experience,  
24 you would believe that some contributors expect  
25 officials to treat them as friends, by reason of



1  
2 their contributions?

3 MAYOR KOCH: There's no question in my mind  
4 that some people make contributions, and they  
5 think that will buy them something that they would  
6 not otherwise have. That does not exist with me,  
7 and I don't think it exists with most public  
8 officials.

9 Obviously, based on the fact that there are  
10 some corrupt people, some have already been convict-  
11 ed, it does exist with some. I believe the public  
12 is right in worrying about the size contributions,  
13 and that the propriety and appearance is as im-  
14 portant as the substance. I mean, that's not a new  
15 thought.

16 I think -- isn't there an adage about justice,  
17 the perception of justice is as important as justice  
18 itself.

19 COMMISSIONER MAGAVERN: My point is, we are  
20 talking about perceptions that seem to be grounded  
21 in common human experience and reality, namely,  
22 that people may be influenced by large contributions,  
23 and the public is not simply misinformed if they're  
24 worried about that.

25 MAYOR KOCH: I say that that perception, and

1  
2 maybe on occasion the fact of it requires that we  
3 reduce the expenditures and put caps on and do things  
4 that you're urging be done, and I support you in  
5 doing it.

6 COMMISSIONER MAGAVERN: Thank you, Mr. Mayor.

7 MR. BIENSTOCK: One final question, and this  
8 question is probably best directed to Mr. Mandelker.

9 When we scrutinize the July 15, 1988 filing,  
10 which relates back to January of this year, are we  
11 going to find no corporate affiliates which aggregate  
12 more than \$3,000 after February 29th?

13 MR. MANDELKER: I don't know yet. We haven't  
14 looked at the report.

15 MR. BIENSTOCK: But that would be the policy?  
16 The policy is not to accept more than \$3,000 from  
17 corporate affiliates after the date of the new law?

18 MR. MANDELKER: I just heard it.

19 MAYOR KOCH: After the date of the new law,  
20 there's no question about it.

21 Let me make it very clear. Our position is  
22 that subsidiaries have to be perceived as part of  
23 the principal, and if we have received money from  
24 subsidiaries that violate that principle, we will  
25 return it.

MR. BIENSTOCK: How will you determine that?

MAYOR KOCH: I have to leave it to Larry Mandelker to make the best search he can.

THE CHAIRMAN: I'd like to thank you very much for your participation, and I'd also like the public record to reflect the extensive assistance that has been provided our Commissioner in connection with our many inquiries since last April by the Corporation Counsel, Peter Zimroth, and your counsel, Pat Mulhearn.

We will take a brief recess.

(Whereupon, a brief recess was taken at 10:45 o'clock a.m.)

(Thereupon, at 10:50 o'clock a.m., the following proceedings were had:)

THE CHAIRMAN: Mr. Andrew Stein?

Mr. Stein, I'd like to swear you in.

A N D R E W            S T E I N,            called as a witness,  
having been first duly sworn by the Chairman,  
was examined and testified as follows:

THE CHAIRMAN: Please be seated.

MR. STEIN: Thank you.

THE CHAIRMAN: I'd like to recognize Constance Cushman.

1  
2 MS. CUSHMAN: Good morning, Mr. Stein.

3 MR. STEIN: Good morning.

4 MS. CUSHMAN: I am going to be asking you a  
5 number of questions this morning concerning your  
6 fundraising practices, and if some of the questions  
7 that I ask you involve a level of detail which is  
8 beyond your immediate knowledge, I would ask if  
9 you have staff members whom you have brought with  
10 you, so you can refer to them to assist you in  
11 answering the questions?

12 If so, we would like to have them sworn at  
13 this time.

14 MR. STEIN: I brought Victoria Streitfeld,  
15 who is my Board of Estimate representative, since  
16 some of these issues may deal with the Board of  
17 Estimate, and probably will, and I brought John  
18 Higgins from my office, whom I've asked to look  
19 into and monitor the whole issue of the Goodman  
20 Amendment. I've brought those two people.

21 MS. CUSHMAN: Do you expect that they may be  
22 answering some of the questions?

23 MR. STEIN: It's hard to know. They may.

24 MS. CUSHMAN: Perhaps, Mr. Chairman, we  
25 should follow the procedure we followed earlier.

1  
2 THE CHAIRMAN: They're certainly welcome to  
3 join you at the witness table.

4 Why don't we, in the event it becomes necessary  
5 to swear them in later, just swear them in now.

6 (Whereupon, Victoria Steitfeld and John  
7 Higgins were duly sworn by the Chairman.)

8 THE CHAIRMAN: Please be seated.

9 MS. CUSHMAN: Mr. Stein, in March, this Com-  
10 mission heard testimony from your campaign manager,  
11 Mr. Friedman, who said you were the person who  
12 handled fundraising on behalf of your Campaign  
13 Committee directly. That, as distinguished from  
14 some other committees who appoint the fundraiser,  
15 this was a responsibility thta you took yourself  
16 directly; is that correct?

17 MR. STEIN: Well, in 1984, when I ran for  
18 Congress, we hired a fundraising concern to do a  
19 lot of it.

20 And in 1985, I had just finished an unsucces-  
21 ful race for Congress, was facing another race,  
22 literally, within two months, and we just ran  
23 right into the campaign.

24 This coming year, in 1989, we are going to  
25 hire a professional to do it.

1  
2 I think a lot of it was just a function of  
3 the circumstances of having been in a campaign,  
4 having to then turn around to go into another  
5 one right away. So, I did a lot of it. We had  
6 over a dozen fundraising functions that we did  
7 out of Mr. Friedman's office and Mr. Toll's office,  
8 my accountant.

9 MS. CUSHMAN: Mr. Stein, you've run a number  
10 of races, however, for public office, have you not?

11 MR. STEIN: Yes.

12 MS. CUSHMAN: And during these years prior  
13 to the 1984 Congressional race, have you not made  
14 it a practice to handle your own fundraising, by  
15 and large, as opposed to hiring somebody to do it  
16 for you, a professional?

17 MR. STEIN: Yes. For the Assembly races,  
18 there wasn't all that much fundraising involved.

19 Going back to the first one, where there was  
20 a lot of money spent, my father did most of it, and  
21 after that, there was very little money or fund-  
22 raising in the 1977 race. My family did a lot of  
23 it, I did some of it.

24 And the same with 1981.

25 You have to understand that, I would say,

1  
2 going back twenty years, which is what I've been  
3 in elective office, I've had a lot of friends and  
4 supporters, people I grew up with, people I knew all  
5 my life, who have raised money for me. A lot of  
6 my contributors go back, literally, to my first  
7 race and my early Assembly races, and have been  
8 continuous supporters of me. A lot of my supporters  
9 are family friends and personal friends.

10 MS. CUSHMAN: When we first began looking into  
11 this area, the staff of the Commission contacted  
12 your office to identify the person who would be  
13 most knowledgeable about fundraising, and at that  
14 time, you invited us to come discuss the matter  
15 with you directly, and, in fact, we did discuss  
16 at some length your fundraising philosophy and  
17 your approach to fundraising; is that right?

18 MR. STEIN: Yes, we did.

19 MS. CUSHMAN: Could you describe at this time  
20 for the Commissioner what you previously described  
21 to us as your approach to fundraising? By that I  
22 mean, who you choose to approach, how you choose to  
23 expand the network of people who might become your  
24 contributors, and so forth.

25 MR. STEIN: Surely. Well, as I said before,

1 I have a network of, you know, people, a basic  
2 network of people, who have been supporting me for  
3 quite a period of time. A lot of them are old  
4 friends of mine, old family friends. Some do  
5 business with the City, some don't do any business  
6 with the City. They are people I have known for  
7 a long time. They have been a basic network.  
8

9 You always try and involve more people in  
10 that network, a hard core of people.

11 Then you have fundraising events. We try  
12 and bring in other people.

13 But I would say that a lot of it is personal  
14 friends, personal contacts that have been developed  
15 over a long period of time, both from personal  
16 relationships and from being in politics for  
17 twenty years.

18 MS. CUSHMAN: And do you recall telling us  
19 about how you prefer, in fact, to develop personal  
20 relationships before you request financial assist-  
21 ance from people who might become your contributors?

22 MR. STEIN: Well, there's no question about  
23 that. One of the more unpleasant, if not most  
24 unpleasant, parts of running for public office is  
25 the whole area of fundraising. It's not a lot of



1  
2 fun, and it's something you have to do if you're  
3 a serious candidate for major office and you want  
4 to get elected.

5 I find that you're dealing in fundraising,  
6 you're dealing with the human dynamic, and I find  
7 that if you have a friendship, a personal relation-  
8 ship with someone, that it makes it much easier  
9 when you're in a campaign, if you need help, to  
10 ask for it than just sort of going to people cold  
11 and asking them for assistance.

12 So, I have a basis of -- a basic group of  
13 friends that have been helping me for, as I said,  
14 going back a long period of time, and over the  
15 years I've added to that and built strong friend-  
16 ships with people who I can count on to support me,  
17 and they can get their friends to support me, as  
18 well.

19 MS. CUSHMAN: Have you developed a list of  
20 people that you can solicit for campaign contribu-  
21 tions that's basically your solicitation list?

22 MR. STEIN: Uh-huh.

23 MS. CUSHMAN: How did you go about developing  
24 that list?

25 MR. STEIN: Well, again, without repeating

1  
2 myself, a lot of it is based on that -- the list  
3 we have accrued over the years and, obviously,  
4 you sort of know who has given maybe to Cuomo and  
5 Koch and Abrams, and some of the other big con-  
6 tributors, or who has been very involved in  
7 presidential races.

8 You see someone who's very, very involved  
9 in a Mondale race, for instance, and raised a lot  
10 of money, and you may be trying to get them involved,  
11 develop a friendship there.

12 It's really a network built on personal  
13 relationships, and there's no sort of one way that  
14 it develops. I think there's sort of a core list  
15 which gets built on.

16 MS. CUSHMAN: Do you use other candidates'  
17 campaign filings to identify potentially significant  
18 contributors?

19 MR. STEIN: I don't think we -- I don't  
20 remember if we used the filings per se, but when  
21 you're in the business, you're aware who is active  
22 in someone else's campaign, and maybe they can be  
23 active in yours.

24 MS. CUSHMAN: Do you obtain lists of potential  
25 contributors from charitable institutions or

1  
2 charitable fundraising --

3 MR. STEIN: We have over the years. Yes, we  
4 have.

5 MS. CUSHMAN: Now, not from anybody who is  
6 connected with today's hearing, but in the course  
7 of reviewing the Goodman Amendment, you are familiar  
8 with the Goodman Amendment and what it requires?

9 MR. STEIN: Yes.

10 MS. CUSHMAN: In the course of looking into  
11 questions relating to the Goodman Amendment, the  
12 staff cotnacted people involved in government, and  
13 one individual suggested that a campaign fundraiser  
14 would be remiss in not using the list generated for  
15 purposes of compliance with the Goodman Amendment,  
16 that is, the list of corporations or other individu-  
17 als that have come before the Board of Estimate for  
18 fundraising purposes.

19 Do you have a view of the propriety of using  
20 such a list of people who have done business with  
21 government for fundraising purposes?

22 MR. STEIN: I'm sorry, I didn't understand  
23 your question.

24 MS. CUSHMAN: Pursuant to the Goodman  
25 Amendment.

1  
2 MR. STEIN: I understand, except what you're  
3 speaking -- physically talking about.

4 MS. CUSHMAN: The people with matters before  
5 the Board of Estimate fill out forms, the Form 333,  
6 and then the Board of Estimate compiles a list which  
7 is published in the City Record, and that's the  
8 list I am referring to.

9 MR. STEIN: One of the problems with the  
10 Goodman Amendment is that in a sense it interrelates  
11 your office and fundraising, which I've always  
12 separated.

13 In other words, because of the Goodman Amend-  
14 ment, you have to have someone on your staff who  
15 will monitor the Goodman Amendment. You have to  
16 compile this list, so that the area between the  
17 office and fundraising becomes -- by necessity,  
18 in terms of complying with the law, becomes much  
19 more intertwined.

20 If they publish the list, and I never thought  
21 about it, I guess if they published the lists, it's  
22 hard -- I guess you could really prohibit someone  
23 from using it, but in the real world, I think it's  
24 hard, because it's public domain. It's there, and  
25 I would -- I don't think it's a great thing to have

1  
2 it, but it's there and it's going to be hard to stop  
3 people from using it, I would think, because it's a  
4 public record.

5 MS. CUSHMAN: Well, you could instruct anyone  
6 raising money on your behalf not to use that list,  
7 could you not?

8 MR. STEIN: I could.

9 MS. CUSHMAN: When we spoke earlier, you men-  
10 tioned that you considered the Wall Street community  
11 and developers excellent sources of contributions.

12 What was it about them that makes them good  
13 sources of contribution?

14 MR. STEIN: They have a lot of money.

15 (Laughter.)

16 MS. CUSHMAN: Isn't it also true that they  
17 do a great deal of business with the City?

18 MR. STEIN: Yes, it is.

19 MS. CUSHMAN: You mentioned that you have a  
20 large network of personal friends who contribute  
21 in large amounts. They include, do they not,  
22 Jeffrey and Rubin Glick?

23 MR. STEIN: Yes.

24 MS. CUSHMAN: And Zachary and Larry Fisher?

25 MR. STEIN: Yes.

1  
2 MS. CUSHMAN: Donald Trump?

3 MR. STEIN: Yes.

4 MS. CUSHMAN: Gerald Guterman?

5 MR. STEIN: Yes.

6 MS. CUSHMAN: Paul and Harold Millstein?

7 MR. STEIN: Yes.

8 MS. CUSHMAN: William Zeckendorf?

9 MR. STEIN: Yes.

10 MS. CUSHMAN: Aren't these people who have  
11 also a great deal of business with the City?

12 MR. STEIN: Uh-huh.

13 MS. CUSHMAN: Now, in your campaign for  
14 City Council President, was there anything about  
15 that race that -- you alluded to the fact that you  
16 had just come off a Congressional race -- that  
17 caused you to modify or adapt what had been your  
18 previous fundraising practices in any way? Did  
19 you develop a strategy --

20 MR. STEIN: Well, I was running against --  
21 I just finished an unsuccessful race for Congress,  
22 and I was then faced with another race for City  
23 Council President, literally within a month or  
24 so.

25 I was running against a fellow who has

1  
2 hundreds of millions of dollars, is extremely  
3 wealthy, and had communicated through mutual friends  
4 that he intended to spend over five million in a  
5 very sort of arrogant and cavalier way, and that  
6 almost sort of hinted I shouldn't bother to run,  
7 because he was going to overwhelm me with money.  
8 He told that to one mutual friend, that he was  
9 going to put millions and millions of his own in,  
10 and so forth.

11 We knew we were not going to spend as much  
12 as he was, but we had to have enough to run a good  
13 campaign.

5 14 MS. CUSHMAN: So, what was the strategy that  
15 you adopted in connection with the '85 race?

16 MR. STEIN: The strategy was to raise enough  
17 money to be competitive.

18 MS. CUSHMAN: Did thta include trying to  
19 make use of your own time cost effective by  
20 soliciting significant contributions from a rela-  
21 tively fewer number of people, rather than a  
22 alrger number of contributions, and holding fund-  
23 raising dinners and things like that?

24 MR. STEIN: Well, you know, I have witnessed  
25 the presidential candidates. I was a good friend

1  
2 and still am a good friend of Fritz Mondale, and  
3 saw what he went through in '84.

4 I know a lot of these presidential candidates,  
5 and I see what they go through now. It's not  
6 different running for President of the United States,  
7 President of the City Council. You have to spend  
8 a large amount of time raising money.

9 I know that the people running for President  
10 -- I've seen it this time, I saw it last time --  
11 their staff gives them lists and lists of people.  
12 Sometimes they're in hotel rooms for five, six  
13 hours at a time making calls to people throughout  
14 the country. They have the lunches and dinners  
15 with people, asking for their help.

16 There's no easy way to do it, whether it's  
17 President or President of the City Council. You  
18 have to ask people to assist you and to help you,  
19 and I don't think we've had -- it was written down  
20 as a hard and fast strategy, but we knew we didn't  
21 have a lot of time, because my opponent went on  
22 television rather early in the spring, which was  
23 unusual for this type of a race, and started  
24 spending large amounts of money on television. I  
25 don't know the exact time, but I think as early as



1 April, and we could not afford to -- we could not  
2 afford to let him be on television for long periods  
3 of time without us being.  
4

5 So, there was a real -- I won't say urgency,  
6 but there was a real concern that we had to raise  
7 money to be competitive with this guy who could  
8 just put a million dollars of his own in the  
9 campaign and did.

10 MS. CUSHMAN: And, in part, one of the things  
11 you did in order to have cash availble when you  
12 needed to spend it was to take substantial loans  
13 from commercial banks; isn't that right?

14 MR. STEIN: Yes, that's correct.

15 MS. CUSHMAN: I'd like to talk about the loans  
16 a little bit more later, but at the moment, let me  
17 turn to a different subject, which is the question  
18 of many corporations from the same family group of  
19 corporations that are connected or controlled by  
20 one individual.

21 In your campaign, you have received on certain  
22 occasions a number of contributions from corporate  
23 entities that are Donald Trump corporations or  
24 corporate entities that are controlled by Ronald  
25 Pearlman.

1  
2 The City Public Funding Bill lowers the  
3 amount of contributions, so that a corporation  
4 can no longer give \$5,000 in New York City, but  
5 rather \$3,000 now.

6 MR. STEIN: \$3,000.

7 MS. CUSHMAN: We've heard the Mayor this  
8 morning take the position that the City Bill can  
9 be interpreted and should be interpreted and will  
10 be interpreted by his Campaign Committee to pre-  
11 clude multiple corporations contributing if they're  
12 all controlled by the same person, if they're  
13 affiliated corporations.

14 So, all of the Donald Trump corporations,  
15 for example, would be collectively restricted to  
16 \$3,000.

17 What is your view of this proposal and the  
18 City Bill as it pertains to this provision?

19 MR. STEIN: I haven't studied it. I think  
20 that one service this Commission is doing and can  
21 continue to do is look at the City Bill to see  
22 what the loopholes are and to try to tighten it  
23 up.

24 I think the one problem you have is that you  
25 have certain legislation, whether it was the State

1  
2 legislation in the past, or now it's the Public  
3 Financing Bill in the City, and the same in the  
4 Fderal Government, and I think that whatever the  
5 law is, people are supposed to live within the  
6 law and follow the law very strictly.

7 But, then I think you can't go back retro-  
8 actively and say, well, this is what the law was,  
9 and we don't like it, and why did you do things  
10 that way. The answer is, because that's the way  
11 the law read.

12 I think it's very important now, with the  
13 Commisison's focus on all of this area of campaign  
14 financing -- and it's a complicated area, and I  
15 think you'll find that no matter what you do and  
16 no matter what is done -- I think a lot of very  
17 positive things have been done over the last six  
18 months -- there always are pushes and pulls, and  
19 when you think you have a perfect law, when you  
20 look at it three years hence, you will see there  
21 were X and Y that were wrong, and why didn't we  
22 think of this and that.

23 I think one thing that you can do is to  
24 suggest specific amendments to the City Council  
25 as to how we can tighten or be very specific, so

1  
2 there is not a lot of interpretation allowed in the  
3 law.

4 Now, I'll take a look at the corporate  
5 contributions, and I think that's one thing that  
6 you could recommend to the City Council, to tighten  
7 up the bill that was passed by the City to specific-  
8 ally say, perhaps, that one corporation for one  
9 person -- one corporation can only give once to  
10 an individual.

11 MS. CUSHMAN: Has your Campaign Committee  
12 been involved raising money since the new City  
13 Council Bill has passed, the Public Funding Bill?

14 MR. STEIN: In a very, very minor sort of  
15 way, if at all.

16 MS. CUSHMAN: Do you know whether, between  
17 the end of February and today, you received cor-  
18 porate contributions?

19 MR. STEIN: I am not sure. I don't believe  
20 so. I can't say a hundred percent so, but I don't  
21 think so.

22 MS. CUSHMAN: We spoke a bit about the  
23 \$5,000 limit under State law, corporate contribu-  
24 tions, and, as you know, that's an aggregate limit.  
25 So that in -- and we have noticed that from time

1  
2 to time Campaign Committees are involved in refund-  
3 ing corporate contributions or other contributions  
4 for one reason or another.

5 There are a couple of instances of that in  
6 your filing, which we have been unable to understand  
7 or get a clear picture of, and I wonder if you  
8 could address that.

9 If you look at Exhibit 15 in the book in  
10 front of you --

11 MR. STEIN: It's a big book.

12 MS. CUSHMAN: It's a little hard to get the  
13 pages around the rings, but if you could just go to  
14 Exhibit 15?

15 MR. STEIN: Okay.

16 MS. CUSHMAN: When I spoke of the 5,000, I  
17 meant that any one corporate entity, that is, a  
18 corporation, can only give 5,000.

19 MR. STEIN: To anybody.

20 MS. CUSHMAN: To anybody.

21 So, you might be in a position of receiving  
22 \$5,000, and the corporation may have given in excess  
23 of its allowed limit?

24 MR. STEIN: That's correct.

25 MS. CUSHMAN: Exhibit 15, toward the bottom

1 of the page, shows refunds. Actually, at the top  
2 it shows refunds to Jack Resnick & Sons, Resnick  
3 Building Company, Resnick Development Corp., and  
4 Albanese Development Corp.

5 If you turn to Exhibit 19, at Page 6,  
6 Exhibit 19, actually at Page 2, Page 4 and Page 6,  
7 those appear to be --

8 MR. STEIN: Page 19 here?

9 MS. CUSHMAN: Exhibit 19, and there are pages  
10 in there which are not separately numbered, the  
11 second page, fourth page and sixth page.

12 On those pages, there appear to be contribu-  
13 tions received from the Resnick Development Corpor-  
14 ation. The first contribution is on March 12th,  
15 the second contribution is on July 30th and JULY  
16 30th again, 5,000, 5,000, and the first one being  
17 \$2,500.

18 On Exhibit 15, the refund was for \$12,500,  
19 and on Page 6 of Exhibit 19, on March 19, 1986,  
20 we see Jack Resnick, personally, and Burton Resnick,  
21 personally, what totals \$12,500.

22 Do you know what happened in that situation?

23 MR. STEIN: I honestly don't. I can check  
24 it for you.  
25

1  
2 MS. CUSHMAN: It is conceivable that was  
3 simply a situation where the Resnick companies  
4 had exceeded their corporate limit on giving, but  
5 the Resnick brothers decided they preferred to  
6 continue to support your campaign and return the  
7 money to you in their individual names?

8 MR. STEIN: I just don't know, but I can  
9 certainly find out for you.

10 MS. CUSHMAN: Now, if you look at Exhibit 18,  
11 we see the same sort of thing apparently taking  
12 place in your filings on Exhibit 18. On Page  
13 2 and 4, there are contributions on June 14th and  
14 November 27th of 1985 totalling \$4,500. The refund  
15 on Exhibit 15 was for that same amount, and on  
16 Page 6 of Exhibit 18, you see Vincent Albanese  
17 giving you \$2,500 himself, personally, and Anthony  
18 Albanese gives you \$2,250. So, the individual  
19 corporate partners or principals, gave you the  
20 same amount of money in toto.

21 Do you know what took place in that situation?

22 MR. STEIN: I really don't. I can find out.

23 MS. CUSHMAN: Now, there's another aspect of  
24 this situation which has come to our attention,  
25 and it's reflected in Exhibits 16 and 17 of the

1  
2 book before you.

3 On Exhibit 16, there's an item before the  
4 Board of estimate, March 20, 1986, "Resolved,  
5 Calendar No. 4, that an application by U.N. Plaza  
6 Tower Associates," which is an Albanese company,  
7 for a -- I believe it's a zoning variance or a  
8 special permit.

9 On Exhibit 17, we see the roll call on the  
10 second page on March 20, 1986. Vincent Albanese  
11 is appearing in connection with Calendar No. 4,  
12 representing United Nations Plaza Associates, and  
13 11 to 1, a special permit was granted -- 11 to 0.

14 MR. STEIN: Right.

15 MS. CUSHMAN: Was there any connection between  
16 those two transactions, the return of the campaign  
17 contribution on that date and the Albanese individu-  
18 ally making their contributions to you and the mat-  
19 ter that was on before the Board of Estimate?

20 THE WITNESS: I jsut don't remember. I have  
21 no idea. I can find out for you and get back to  
22 you immediately.

23 MS. CUSHMAN: I'm not meaning to suggest that  
24 there was, but you would agree, would you not, that  
25 there might be an appearance problem with a



transaction such as this?

MR. STEIN: I'll find out what the situation was for you, specifically. I don't want to speculate about it.

MS. CUSHMAN: I'd like to turn to the subject of loans.

MR. STEIN: Can I put this away?

MS. CUSHMAN: Right.

As of your most recent campaign filings, as we read them, you still had over \$330,000 in outstanding loans.

Is that still the case?

MR. STEIN: I don't believe so.

MS. CUSHMAN: What is your sense of how much you have outstanding in campaign loans?

MR. STEIN: I thought it was more like 150,000, but I'll be --

MS. CUSHMAN: Have you repaid substantial amounts of campaign loans?

MR. STEIN: Do you want to give me specific --

MS. CUSHMAN: If you'll look at Exhibit 47 -- I think you'll have to go back to the black book.

Page 2 of that exhibit shows the outstanding

loan balance of your Campaign Committee as reflected in a January 11, 1988 filing, as \$334,875.

MR. STEIN: This is what date?

MS. CUSHMAN: This is as of your most recent filings.

MR. STEIN: Which was then?

MS. CUSHMAN: January 11, 1988.

MR. STEIN: We've paid, I think -- I think it's down to \$150,000.

MS. CUSHMAN: Have you repaid the loans that you had outstanding to the banks or the loans you had outstanding to individuals during that interim?

MR. STEIN: I believe a little bit of both, but, again, we can get the exact figures for you today and give them to you.

MS. CUSHMAN: In connection with taking out your bank loans, you had asked a number of individuals to guarantee those loans; isn't that right?

MR. STEIN: That's correct.

MS. CUSHMAN: What did you say to those individuals when you asked them to guarantee the bank loans which you took out?

MR. STEIN: I don't remember the exact language, but, basically, we needed a loan. We

1  
2 needed to get on television, and we asked them to  
3 participate. There were people participating in  
4 the loan. We needed the funds rather quickly to  
5 get on television, and we asked them if they would  
6 go on the loan.

7 MS. CUSHMAN: Did you suggest to them that  
8 they would ultimately repay the loans to the banks,  
9 or did you suggest to them that the Campaign Com-  
10 mittee would ultimately take responsibilities for  
11 the loans?

12 MR. STEIN: Again, I don't remember the  
13 exact language, but I don't think I suggested  
14 anything other than that I asked if they could go  
15 on the loan. I don't think it was specified  
16 whether they -- any embellishment on it, other  
17 than going on a loan.

18 MS. CUSHMAN: In fact, a good many of the  
19 guarantors were asked ultimately to pay the amount  
20 that they had guaranteed and helped you repay the  
21 loan after the election; isn't that right?

22 MR. STEIN: Some repaid the loan, some the  
23 campaign paid, some they paid, and some, I think,  
24 split the difference.

25 MS. CUSHMAN: In some instances, isn't it

1  
2 true that instead of the guarantors repaying the  
3 loans to the banks, they converted those amounts  
4 or some portion of those amounts into personal  
5 loans to the Campaign Committee, enabling the  
6 Campaign Committee to repay the banks, and making  
7 the Campaign Committee, isntead, owe monies to  
8 these individuals?

9 MR. STEIN: Yes.

10 MS. CUSHMAN: And among the people that  
11 participated in this kind of transaction were  
12 Phillip Ian Cohen, in the amount of \$50,000,  
13 Steven Cohen, in the amount of \$37,500, Thomas  
14 Berger in the amount of \$37,500, and the law firm  
15 of Citone, Katz, Lebow & David, in the amount of  
16 \$55,000? Do you recall that?

17 MR. STEIN: Yes.

18 MS. CUSHMAN: Isn't it true that all of  
19 these individuals are in some way connected to  
20 Telecom Plus Company?

21 MR. STEIN: Steve Cohen is. Phillip Cohen,  
22 I don't know. The law firm, I don't know if they  
23 are or not.

24 MS. CUSHMAN: Phillip Cohen, I believe, is  
25 a director of the Telecom Company. Isn't it

1  
2 true that the Telecom Company has a substantial  
3 amount of business with the City of New York and  
4 does apply before the Board of Estimate for various  
5 contracts?

6 MR. STEIN: It's a silly issue, because, first  
7 of all, my father was on the Board of that company.  
8 He arranged for all these things. I never talked  
9 to anybody about anything to do with the Board of  
10 Estimate. I had no idea that they did business  
11 with the Board of Estimate until there was a vote,  
12 and Vickie can refresh my recollection, but I never  
13 talked to any of these people about the Board of  
14 Estimate. I had no concept that the company did  
15 business with the Board of Estimate. My votes  
16 had nothing to do with it.

17 This was done through -- basically through  
18 my father, who was also on the Board and was a  
19 good friend of Steve Cohen's at that time. I had  
20 absolutely no idea that this company had anything  
21 in any way, shape or form to do with the Board of  
22 Estimate until it came out in some trade publication,  
23 and I shouldn't recuse myself from the vote. I  
24 was not involved in any way, shape, form of helping  
25 them, or didn't know at the time I voted that they

1  
2 did business with the Board of Estimate.

3 MS. CUSHMAN: But you do agree that this does  
4 create an appearance problem in connection with  
5 the types of these loans?

6 MR. STEIN: Everyone has their -- you may  
7 have a sense of what an appearance problem is, and  
8 the Chairman and everybody up here, the press may,  
9 the public may. You know, appearance problem  
10 depends on the person who has the opinion. The  
11 truth is, which is what i'm concerned about, what  
12 the reality is, that I had absolutely no idea that  
13 these people had anything to do with the Board of  
14 Estimate, absolutely none and, if I did, I certainly  
15 would have excused myself from the vote.

16 So, I don't know what the appearance is.  
17 You'll have a judgment, and so will everybody else  
18 have a judgment that knows about this issue. But  
19 the truth is, that I had absolutely no idea that  
20 these people had anything in any way, shape or form,  
21 to do with the Board of Estimate when I was getting  
22 help from them.

23 MS. CUSHMAN: However, your Campaign Committee  
24 was \$180,000 in debt to a company which, the records  
25 show, was obtaining over \$1 million in City business

1  
2 about the same time?

3 MR. STEIN: Connie, you know, if I didn't  
4 know, and I'm telling you I didn't know -- I had  
5 absolutely no conception, not even a tiny little  
6 inkling, of anything to do with the Board of  
7 Estimate, and, you know, I can't -- if I didn't  
8 know, I didn't know, and I didn't.

9 MS. CUSHMAN: We accept your word for that.

10 MR. STEIN: Thank you.

11 MS. CUSHMAN: We're not attempting to suggest  
12 that you knew something that you did not know.  
13 We fully accept your word for that.

14 I'd like to turn to the new City Bill as  
15 it affects loans that are currently in place or  
16 in existence, debts which the Campaign Committee  
17 must pay off at some point prior to being able to  
18 raise more money.

19 You've gone on record as saying, I believe,  
20 campaign finance reform, contribution limits and  
21 all of that increased disclosure, and the new Bill,  
22 does contain provision for all that, but it also  
23 contains a provision referring to loans which  
24 allows for the raising of otherwise unlimited  
25 amounts of money. When I say "otherwise unlimited,"

1  
2 I'm assuming the State law limitations on contribu-  
3 tions would continue to apply. But large sums of  
4 money, limited only by the State law and not by the  
5 new City Funding Law, for purposes of retiring  
6 the outstanding debt; is that right?

7 MR. STEIN: I believe so. I am not an expert  
8 on the law.

9 MS. CUSHMAN: Did you participate in the  
10 negotiation of that law? Can you shed any light  
11 on how that provision came to be in the new law,  
12 as we know now in the Mayor's original proposal,  
13 and it's something that is in the final law, as it  
14 was presented for signature?

15 MR. STEIN: I wasn't intricately involved  
16 in the law. The one area that I did involve myself  
17 with at the end was raising the limitations. I  
18 thought -- I think originally for City Council  
19 President was 1.25 as to what a candidate can spend  
20 on a public financing, 2.5 for Mayor. I asked that  
21 it be raised to three million for Mayor and  
22 1.75 for City Council President.

23 I always fear somebody coming in with the  
24 ability to put in two, three, four million dollars,  
25 a Lehrman or Lipper, and not opting into public



1  
2 financing, and then the other person not being  
3 able to compete. So, that was really the area  
4 I was involved in.

5 Otherwise, I really wasn't particularly  
6 involved in the drafting of the law.

7 MS. CUSHMAN: Is it fair to say you are the  
8 principal beneficiary of the provision? Do you  
9 know whether anyone other than yourself benefits  
10 from this provision of the law?

11 MR. STEIN: I really don't know.

12 MS. CUSHMAN: Doesn't it appear inconsistent  
13 with the other provisions of the law?

14 MR. STEIN: It allowed people to retire past  
15 debts by still responding to the State limit. I  
16 can't say I am unhappy with it, but I was not --  
17 I did not -- I did not lobby for it.

18 MS. CUSHMAN: Let's turn to the Goodman  
19 Amendment, if you would.

20 The Goodman Amendment is a State law which  
21 was passed the end of 1986, and which attempts to  
22 restrict campaign contributions by people who  
23 have matters before the Board of Estimate.

24 At the time the Goodman Amendment was put  
25 into place or was enacted, was it possible, as

1  
2 an administrative matter, for your Campaign  
3 Committee to monitor or anyone, really, to monitor  
4 who had business before the Board of Estimate and  
5 who did not?

6 MR. STEIN: I think that the intention of  
7 the Goodman bill is a good one, but the problem  
8 is it's somewhat of an administrative nightmare.  
9 It's very difficult to monitor, in terms of time,  
10 six months before, a year after, people getting  
11 contributions, and you have to get your office  
12 involved, you have to keep lists.

13 I always think laws are better when they're  
14 clear. If I had my druthers, I would say we should  
15 have a law passed by the State which says that  
16 nobody can give more than three, \$4,000 -- \$3,000  
17 to anybody, anybody being -- corporations can only  
18 give three, and with very full disclosure, because  
19 I think that when you have a law that sets up these  
20 specific limitations, it's very difficult, and  
21 we found it's very difficult to comply with it,  
22 because you got -- suppose somebody contributes,  
23 and they didn't know they were going to do business  
24 with the Board, and then they do business with the  
25 Board.

1  
2           It's intentions are good, but it's hard to  
3 administer. I think a law that gets too fussy in  
4 terms of setting six months here, a year here,  
5 are difficult. I would prefer, in this whole issue  
6 of campaign financing, to just say, \$3,000 contribu-  
7 tions for any individual, for corporations, full  
8 disclosure, and do it cleanly like that. I think  
9 that would go a long way to making the system  
10 simpler and dealing with the whole issue.

11                           (Continued on next page.)  
12  
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25

1  
2 MS. CUSHMAN: How has your fundraising  
3 effort or your Campaign Committee gone about  
4 trying to develop procedures to comply with  
5 the law?

6 MR. STEIN: Well, John can tell you,  
7 because he's monitoring it, but we have to  
8 keep the lists in terms of who contributes,  
9 and we -- we don't -- when we get a contribu-  
10 tion, we have to look and see whether the per-  
11 son had done business in the time period or  
12 not, and there are problems with it. I mean,  
13 there are problems administratively with it,  
14 and I think everybody is still grappling with  
15 it.

16 If you have a specific question about it,  
17 John can answer.

18 MS. CUSHMAN: It's our understanding of  
19 the procedures he uses that he has a computer  
20 at home, and in that computer he has the con-  
21 tributions that have been received up until  
22 that time, and when the Board of Estimate pro-  
23 vides the lists, the forms on which people have  
24 listed who they are and what their matters are  
25 before the Board, the Forms 333, as they're

1  
2 called, he takes them and, himself, reviews  
3 them to see whether in the past six months  
4 anybody has made any contribution who is  
5 appearing now before the Board. He relies  
6 on his recollection in terms of inspecting  
7 that twelve months after the matter is on.  
8 That, that aspect of it is not computerized  
9 or otherwise formally controlled.

10 MR. STEIN: As I say, it's difficult,  
11 and I also will watch out the best I can.  
12 If I have any questions about whether people  
13 do business with the City, generally, to see  
14 whether they fall in the specific limitations,  
15 and we do our best to comply with this.

16 As I said before, the intention of the  
17 law is good, but it's somewhat of an adminis-  
18 trative nightmare.

19 MS. CUSHMAN: I believe that in response  
20 to a Commission inquiry, you returned a letter  
21 to the Commission, which is, I believe, Exhibit  
22 5 in that book, in which you said that your  
23 success in being able to accomplish that is  
24 reflected by the fact that you have not found  
25 it necessary to refund any contributions.

1  
2 In reviewing the various filings and the  
3 matters that are before the Board of Estimate,  
4 we've isolated only two situations that do in-  
5 volve your campaign, but which appear in some  
6 ways to present problems of enforcement under  
7 the Goodman Amendment.

8 One of them there is laid out in the exhibit  
9 book as Exhibits 6, 7, 8, 9, 10, 11 and 12. I'll  
10 just briefly summarize.

11 One of them involves Brown & Wood, which  
12 was retained as corporate bond counsel by the  
13 City, and during the period aggregating six  
14 months before to twelve months after that point,  
15 gave your Campaign Committee \$4,000. Now, I  
16 understand that with the -- \$6,000, I am sorry.  
17 With the Brown & Wood contribution, we have the  
18 question of whether partnerships and how partner-  
19 ships should allocate their contributions, but  
20 there is another, Sherwood Associates, which on  
21 its 333 disclosure form stated that Jeffrey Katz  
22 was affiliated with that company, and it received  
23 a special permit on a particular date and within  
24 a period of time before and after, primarily after  
25 that date, gave money to your campaign in the

1  
2 total amount of \$4,000, which would violate the  
3 Goodman Amendment.

4 Is it fair to say that this kind of re-  
5 currence reflects the nightmare that you've  
6 just been talking about in terms of record-  
7 keeping and controlling this kind of situation?

8 MR. STEIN: I believe it was you, Ms.  
9 Cushman -- you told my office about this on  
10 Friday, and we will look into it, and, certainly,  
11 if we have not lived up to the Goodman Amendment,  
12 we certainly will return the contribution.

13 I think it does -- I think it is an adminis-  
14 trative nightmare. I think mistakes are going to  
15 be made, certainly unintentionally in this case,  
16 and that's why I think the law, it has to be  
17 changed in some way so as to make it easier to  
18 administer. It's very difficult. Mistakes, I'm  
19 sure, are going to be made, because it's just a  
20 very difficult law the way it's written now.

21 MS. CUSHMAN: We don't mean to suggest in  
22 any way that your vote or the vote of your  
23 representative on the Board of Estimate in  
24 connection with these matters was influenced  
25 by these campaign contributions in these amounts.

1 I'd like to turn, finally, to the matter  
2 of the Board of Estimate's own monitoring and  
3 its own record-keeping in terms of complying  
4 with this law and other laws which are designed  
5 to prevent both the appearance and the reality  
6 of campaign contributions being viewed and used  
7 in order to buy votes or favor or influence in  
8 some way.  
9

10 From time to time, does your staff have  
11 occasion to go to the Board of Estimate and  
12 try to track down the disposition of a matter  
13 or the records pertaining to a matter, or do  
14 you maintain all of those things in your own  
15 office?

16 MR. STEIN: I think Vickie could answer  
17 that.

18 MS. STREITFELD: It's both. We maintain  
19 our own records and utilize records of the  
20 Board of Estimate.

21 MS. CUSHMAN: So, you're aware that, for  
22 example, it would not be possible for you to go  
23 to the Board of Estimate and say, "I have these  
24 ten campaign contributors, and I would like to  
25 find out if they've had any matters before the



1 Board of Estimate within a certain period of  
2 time?", or, "Has Brown & Wood had contracts  
3 with the City or had dealings with the Board  
4 of Estimate within the last four years?", or  
5 something like that?  
6

7 They don't simply keep their records that  
8 way?

9 MS. STREITFELD: The records on the dis-  
10 position of the items, they're clear, they do  
11 that.

12 Now, on the other stuff --

13 MR. HIGGINS: That's correct, there was  
14 essentially no way to backtrack for the one year  
15 period, short of going through every 333 form  
16 for every item submitted to the Board in that  
17 time.

18 MS. CUSHMAN: Or, if you want to find out the  
19 progress of an item on the calendar, you have to go  
20 from calendar number to calendar number, date to  
21 date, and in many cases dispositions are reflected  
22 in the clerk's handwritten notes, in the margins  
23 of their copies of the calendars, and you have to  
24 know who to talk to and what particular aspects of  
25 the decision that clerk or that person is involved

1  
2 with; isn't that right?

3 MS. STREITFELD: The disposition of the  
4 items are easy to find out.

5 MS. CUSHMAN: But the evolution of the  
6 disposition is not easy to find out?

7 MS. STREITFELD: No.

8 MS. CUSHMAN: There is a budget request  
9 on the floor, shall we say.

10 Are you supporting the appropriation of  
11 substantial amounts of money to the Board of  
12 Estimate to improve its record keeping in that  
13 regard?

14 MR. STEIN: Yes. I think the Board of  
15 Estimate has great responsibility. It votes  
16 on land use, it votes on budget, it votes on  
17 disposition of contracts, and it should be  
18 professionalized, and I've advocated increased  
19 facilities and staff to do that in a more pro-  
20 fessional way.

21 MS. CUSHMAN: Isn't it fair to say that it  
22 will require a substantial amount of resources  
23 and energy and thought to bring the record  
24 keeping of the Board of Estimate up to a level  
25 where the public can readily have access to

information about its decisions?

MR. STEIN: It requires a commitment, there's no way about it, and the commitment means money, and it means energy, and it means specific plans to do that, and an agenda.

MS. CUSHMAN: Mr. Chairman, I have no further questions.

THE CHAIRMAN: Thank you very much.

Mr. Stein, you indicated in your response that at the present time your outstanding debt from prior campaigns may aggregate the area of \$150,000. Assume that to be the fact.

What steps do you contemplate taking at this point with reference to eliminating that debt altogether?

MR. STEIN: Well, to raise money, Mr. Chairman, have fundraising events, and to pay it off no later than Thanksgiving time or before that, and then go into 1989.

THE CHAIRMAN: Of course, in 1989 the whole area of campaign debts will be subject, for those who accept public funding in the City, to a new set of rules that would limit loans to the provisions with reference to other campaign gifts.

Loans would be treated eventually with much stricter limits; isn't that so?

MR. STEIN: That's correct.

THE CHAIRMAN: In the meantime, while you're dealing with eliminating this debt, what precautions do you contemplate taking with respect to government decisions that involve you with respect to those to whom you owe a debt?

MR. STEIN: Let me just say one thing, Mr. Chairman: Whether it's these people we are talking about or anybody else who has ever contributed to me, I base my decision based on -- and I've had a twenty year record to prove it -- based on what's right, and what's good for the community, and what's good for the City.

Whether somebody gives me \$50,000 or \$5,000 or \$8,000, it really doesn't matter. I've voted against people who have given me substantial contributions, and I've voted for people who have given me substantial contributions, and there's only one common thread to it, and that's what is the right thing to

1 do, and what's best for the community, and  
2  
3 what's best for the City.

4 So, whether it's these people or whether  
5 it's someone else, it's irrelevant. I just  
6 -- in the sense that my decisions will be  
7 based on the merits, and that's how we approach  
8 our work at the Board of Estimate, and I am  
9 very, very proud of my record. I think I have  
10 an excellent record, and I think my votes are  
11 based on the merits and will continue to be.

12 THE CHAIRMAN: There's certainly no sugges-  
13 tion here to the contrary, but there is a differ-  
14 ence between somebody who has made a campaign  
15 contribution and someone who, at the time of the  
16 government decision, the officer holder is in debt  
17 to.

18 Wouldn't you agree with me, there is at  
19 least the difference of perception?

20 MR. STEIN: I'm sorry?

21 THE CHAIRMAN: I'm just wondering, from a  
22 good government principle, should the public  
23 officer holder who is in debt to a party that's  
24 coming before that government official in connec-  
25 tion with a decision remove him or herself from

1  
2 that kind of situation of passing on a matter  
3 that involves someone to whom you owe a debt?

4 MR. STEIN: Well, I am not sure -- first  
5 of all, I don't think that integrity and good  
6 government can be legislated. I think -- are  
7 you saying that anybody who has sort of -- has  
8 a loan, I should recuse myself from the vote?

9 Well, I mean, that's a point of view, and  
10 it's a worthy one. I don't know if anybody --  
11 if there's an outstanding debt that would fall  
12 into that category. I'm not sure. But, as I  
13 said before, my -- you know, the difference be-  
14 tween someone giving a contribution, a large  
15 contribution, and someone who has a loan out,  
16 anyone could argue -- one could have the posi-  
17 tion, well, if someone raised and gave the  
18 campaign \$150,000, that would be a person who  
19 couldn't be objective in that case. I don't  
20 know if that's different, let's say, from someone  
21 who has an outstanding loan of twenty-five or  
22 50,000.

23 I think you have to make the decision based  
24 on what you know to be the right thing. I think  
25 that you operate within a system that's correct

1 and legal, and, as I said before, I voted the  
2 Millstein brothers, probably my biggest con-  
3 tributors, and I voted against their two most  
4 important items, 42nd Street and the project  
5 downtown, American Express, which is -- their  
6 still suing the City, and there's millions in  
7 legal fees, because they're so angry at it.  
8

9 Other people, as well. The Cohen brothers,  
10 where I set new zoning law, 805 Third Avenue,  
11 and there are people who have met before the  
12 Board of Estimate, who I have voted for their  
13 projects. I do it based on the merits, and I  
14 will continue to do so.

15 I certainly will take your advice, because  
16 of the respect I have for you.

17 THE CHAIRMAN: I'm dealing in a hypothetical  
18 situation. You're dealing from the standpoint of  
19 a standard of generating even greater confidence  
20 in government, that the public official who is  
21 in debt to someone else, who is coming before  
22 that public official for a government approval  
23 of action -- confidence in government, as I see  
24 it, would require that public official to recuse  
25 himself from that particular matter for no other

1  
2 reason than to eliminate the appearances and  
3 questions, because someone that one is in  
4 debt to has remedies to collect the debt,  
5 namely, there may be legal remedies that one  
6 could pursue to collect a debt from someone.

7 At the same time, if you are seeking  
8 assistance or approval from government, per-  
9 haps you're going to be reluctant to take the  
10 legal remedies you otherwise would take, be-  
11 cause you want to be the benefificiary of  
12 government decision.

13 So, removing those kinds of issues and  
14 appearances -- it does seem to me useful to  
15 erect protection so as to avoid questions like  
16 the ones that I've raised and the kind of  
17 comment that one would read in the press on  
18 this subject.

19 MR. STEIN: It makes some sense, and I  
20 will certainly give it a lot of thought.

21 THE CHAIRMAN: Commissioner Hynes?

22 COMMISSIONER HYNES: Mr. Stein, this morning  
23 the Mayor told us that he would from henceforth  
24 interpret the corporate limitation of \$3,000 to  
25 include subsidiaries and affiliates, and whether



1  
2 or not others interpret the law that way,  
3 that would be his interpretation and that  
4 would be his direction to his campaign, to  
5 limit the corporate contributions to \$3,000  
6 and not take additional contributions from  
7 subsidiaries or affiliates of that corpora-  
8 tion.

9 I'm wondering if you have a view on that,  
10 and whether you would be prepared to make the  
11 same commitment?

12 MR. STEIN: Ms. Hynes, I think that the  
13 Commission should address itself -- and I know  
14 I, and I believe the City and State listen to  
15 this Commission, use it in many ways as a  
16 guide post to what campaign reform should be  
17 about. I would recommend that you make a  
18 recommendation, which I would support, to  
19 the City Council to amend the present bill to  
20 say just that, that is, that any corporation  
21 that is controlled by X individual, that the  
22 limitation should just be the \$3,000.

23 At this time, I don't believe in setting  
24 limitations, myself, that my opponents may not  
25 adhere to. But, I certainly would pledge to

1 see that the City Council moves to amend the  
2 bill along those lines. But, I don't believe  
3 in setting artificial guidelines for yourself,  
4 or that you get into a race and you have one  
5 hand tied behind your back. I think it much  
6 better to get the law changed, so that's the  
7 law, and I'll work towards that end.

8  
9 THE CHAIRMAN: We'll go left and then  
10 right. Now I'll recognize Commissioner Magavern.

11 COMMISSIONER MAGAVERN: Mr. Stein, you  
12 described earlier your approach to fund-  
13 raising. I would like to ask you a bit more  
14 about that approach, and, specifically, with  
15 reference to Mr. Joseph Bernstein.

16 You've received contributions from him,  
17 have you?

18 MR. STEIN: Yes, sir.

19 COMMISSIONER MAGAVERN: Do you recall your  
20 first meeting with him, personally, on a one to  
21 one basis?

22 MR. STEIN: I really don't, no.

23 COMMISSIONER MAGAVERN: In his testimony  
24 earlier this year, he testified that he re-  
25 ceived a telephone call from you, and that you

1 then arranged to have lunch with him in the  
2 Oak Room of the Plaza Hotel.  
3

4 Do you recall that meeting?

5 MR. STEIN: Well, actually I did not  
6 recall it, but I, in preparation for the  
7 hearing, read through the past transcripts,  
8 and when I read about it, I did remember the  
9 luncheon.

10 COMMISSIONER MAGAVERN: And was that meet-  
11 ing for the purpose of at least laying the  
12 foundation for a request to him for a con-  
13 tribution?

14 MR. STEIN: As I read in his testimony,  
15 I believe he did not -- I believe the way I  
16 interpreted his testimony, he said I did not  
17 ask him for a contribution at the lunch. I  
18 don't recall specifically that that was the  
19 intention, but it would make sense.

20 COMMISSIONER MAGAVERN: Was your meeting  
21 with him pursuant to your general approach to  
22 fundraising?

23 MR. STEIN: Well, I would say -- I would  
24 say that it is, in the sense that I believe  
25 you develop personal relationships with people,

1 and that goes as much for people who are some  
2 of my biggest contributors, people like the  
3 Ron Pearlmans and the Ed Downes, who raise a  
4 lot of money for me, as much as anybody else,  
5 the John Coogneys, who do not do business  
6 with the City, and as well as people who do.  
7

8 I think that people tend to respond to  
9 human dynamics more than anything else, and  
10 if they know you and like you -- and I think  
11 there's more of a chance that they do want to  
12 help you than not, and I think that the human  
13 dynamics has more to do with fundraising than  
14 anything else.

15 COMMISSIONER MAGAVERN: Then, I take it,  
16 that your meeting with him was for the purpose  
17 of establishing a personal relationship with  
18 him that would broaden your fundraising net-  
19 work; is that right?

20 MR. STEIN: As I said, I don't remember  
21 specifically, but it makes sense to me.

22 COMMISSIONER MAGAVERN: Can you tell us  
23 what prior relationship you had with Mr.  
24 Bernstein prior to that approach?

25 MR. STEIN: I don't remember.

1  
2 COMMISSIONER MAGAVERN: You never knew  
3 him personally at all, did you?

4 MR. STEIN: I'm sure I met him around at  
5 functions and cocktail parties. I have a vague  
6 recollection of meeting him over the years, but  
7 I did not really know him.

8 COMMISSIONER MAGAVERN: Did you know that  
9 he was a person who had matters from time to  
10 time before the Board of Estimate?

11 MR. STEIN: I suppose I did.

12 COMMISSIONER MAGAVERN: And did you sub-  
13 sequently, within a reasonably short time after  
14 that meeting -- do you know if your campaign  
15 fundraisers approached him for a contribution?

16 MR. STEIN: I don't know. I mean, we have --  
17 we had over a dozen fundraisers during that per-  
18 iod of time, around the election time, and we  
19 sent them a lot of invitations. Whether a  
20 fellow like that would respond to fundraising  
21 solicitations, whether he would have given  
22 through someone else, I just don't know. I  
23 honestly don't know the specific circumstances  
24 of how he came to give during that campaign.

25 COMMISSIONER MAGAVERN: Do you think that

1  
2 someone in Mr. Bernstein's position, on receiv-  
3 ing that invitation, having that meeting with  
4 you and then receiving a solicitation for a  
5 contribution, might reasonably feel that things  
6 will go better for his business if he did not  
7 refuse that solicitation?

8 MR. STEIN: I can't answer that. I'm --  
9 I think you have to ask Mr. Bernstein about  
10 that.

11 I can only tell you, once again, that I  
12 have voted against people like the Helmsleys  
13 and the Cohen brothers and the Millsteins,  
14 who are some of my biggest contributors, when  
15 they have given me large sums of money, and I  
16 have voted for some people who have given me  
17 large sums of money. My only criteria is  
18 based on the merits. I cannot get into their  
19 head and tell you what they're thinking. You  
20 have to ask them.

21 COMMISSIONER MAGAVERN: You're dealing with  
22 them on a person to person basis, and you're  
23 forming judgments about what motivates them.  
24 You're developing a personal relationship with  
25 them; right?

1  
2 MR. STEIN: I just think that if people  
3 like you, they're always more likely to be  
4 open than if they dislike you. If they have a  
5 sense of you as a human being, they're more  
6 likely to be helpful to you than not, and  
7 this is for people who don't do business with  
8 the City, who are some of my biggest contribu-  
9 tors.

10 COMMISSIONER MAGAVERN: Would it surprise  
11 you if someone like Mr. Bernstein felt that  
12 perhaps he ought to make a contribution out  
13 of fear that, if he did not, things might not  
14 go as well for him on some future decision?  
15 Would that surprise you?

16 MR. STEIN: Well, it would be a wrong  
17 assumption.

18 COMMISSIONER MAGAVERN: Well, my question  
19 isn't whether it would be wrong, it's whether  
20 it would surprise you.

21 MR. STEIN: Sir, I'm not going to characterize  
22 what someone else thinks or doesn't think.

23 COMMISSIONER MAGAVERN: You have a new  
24 opinion on what people who are requested to make  
25 contributions who have business before the Board

1  
2 of Estimate might think about that, and whether  
3 it might affect their business judgment?

4 MR. STEIN: I think that people give money  
5 for a whole variety of reasons, and in this town  
6 people give a lot of money. A lot of the people  
7 who give to political campaigns are people who  
8 give ten and a hundred times more to the museums,  
9 to the hospitals. They give money for civic  
10 purposes, for political purposes. Some of the  
11 people give \$50,000 contribution or \$20,000 con-  
12 tribution to a political campaign, and give  
13 \$10,000,000 to a hospital. These are people  
14 who generally are involved in the workings of  
15 New York City on a variety of levels.

16 Everybody comes with a different set of  
17 perceptions and a different set of understand-  
18 ings. The fact is, that there are people who  
19 do business with the Board of Estimate, I be-  
20 lieve, who just don't give contributions, be-  
21 cause they just don't want to be bothered with  
22 it, and they think it will hurt them more than  
23 help them.

24 Some people do give contributions. I think  
25 everyone has their own perception, and I think



2 you can't generalize, and I'm not going to.

3 COMMISSIONER MAGAVERN: You do think  
4 some people make contributions out of purely  
5 charitable motives?

6 MR. STEIN: I won't say charitable motives,  
7 and I'm not going to say altruistic motives.

8 I think that people in this town have a  
9 big stake. Let's say real estate developers.  
10 They have billions and billions and billions  
11 of dollars worth of real estate. They can't  
12 move their real estate out of New York, like  
13 IBM could move out of New York. They are  
14 here, and I'm not saying they give out of  
15 sort of an altruistic or charitable motive  
16 necessarily, but they have an investment in  
17 seeing that New York is not run irresponsi-  
18 bly. If New York has real economic problems  
19 and the business climate is not good, and  
20 businesses move out, and there's problems in  
21 New York, New York is very badly mismanaged,  
22 it's going to hurt their investment. So, it's  
23 not necessarily altruism, but I think they have  
24 an investment in New York being run well, and  
25 they may have a whole other different set of

perceptions, but I won't answer for them.

COMMISSIONER MAGAVERN: You've given us some reasons for giving.

My question is: Do you think in some cases their reasons are fear of the consequences of not giving, specifically, the fear of displeasure on the part of the people who hold discretionary authority over their business projects?

MR. STEIN: Sir, you really should ask them. I'm not going to characterize, you know, why people give. I think it's a whole variety of purposes.

COMMISSINOER MAGAVERN: Mr. Stein, I will point out to you that you have given some reasons, you've characterized their motives for some types of giving by people. You're refusing to do so when I ask you specifically --

MR. STEIN: That could be one motivation. There's no -- I think with everybody, you're dealing with psychology. There's a whole list of different reasons.

COMMISSIONER MAGAVERN: Couldn't we go further and say that in some cases it probably is

1  
2 one?

3 MR. STEIN: We're playing games. I can't  
4 say it could be, it could not be. I just don't  
5 know. I think it depends on individuals. With  
6 some people, it may be why, with others it may  
7 not be.

8 COMMISSIONER MAGAVERN: Let's turn to the  
9 question of guarantees, Mr. Stein.

10 Did you read Mr. Zeckendorf's testimony in  
11 preparation for this?

12 MR. STEIN: Yes.

13 COMMISSIONER MAGAVERN: Do you think it would  
14 be reasonable from his perspective for him to  
15 think that, as a businessman, it would not be  
16 prudent for him to insist upon repayment of the  
17 money he paid pursuant to the guarantee?

18 MR. STEIN: I read Mr. Zeckendorf's testi-  
19 mony, and if Mr. Zeckendorf, when the bank  
20 called him, called me that day or in that  
21 period of time, the day after, and asked me --  
22 told me that the bank wanted to be paid, would  
23 the campaign pay it back, I would have right  
24 away.

25 If it wasn't in our campaign funds at the

2 time, I would have seen we raised it and paid  
3 it back.

4 Anybody who called and said specifically  
5 the bank called them, and said they wanted to  
6 be repaid, they were repaid.

7 COMMISSIONER MAGAVERN: Do you understand  
8 why he might have been reluctant to do so, for  
9 business reasons?

10 MR. STEIN: I read Mr. Zeckendorf's testi-  
11 mony, and he said what he said. That was his  
12 perception.

13 You know, I must say, Mr. Zeckendorf is  
14 no shrinking violent, none of these fellows  
15 are, and if he picked up the phone and said,  
16 "Look, Andrew, I want to be -- I want this to  
17 be repaid," it would have been repaid with  
18 absolutely not problem.

19 Anybody who wanted -- whose specifically  
20 asked, when they were called by the bank, to  
21 have the money repaid, were repaid.

22 COMMISSIONER MAGAVERN: My last question  
23 is: Doesn't the fact that Mr. Zeckendorf is  
24 not a shrinking violet, and yet he testified  
25 he was fearful of insisting upon repayment,

1  
2 COMMISSIONER EMERY: Mr. Rubenstein is a  
3 fundraiser, among other things, a public re-  
4 lations person, a lobbyist, but he's also a  
5 fundraiser, is he not?

6 MR. STEIN: Mr. Rubenstein is a public  
7 relations person, and he never played a major,  
8 significant role in fundraising for me, but he  
9 does from time to time raise some funds for  
10 political campaigns, that's correct.

11 COMMISSIONER EMERY: Now, at the time he  
12 was representing Mr. Bernstein. You know that  
13 to be the case?

14 MR. STEIN: Yes, I do.

15 COMMISSIONER EMERY: Is it fair to say that  
16 at the time you had lunch with Mr. Bernstein,  
17 that you knew that Mr. Rubenstein was repre-  
18 senting Mr. Bernstein in all likelihood?

19 MR. STEIN: Yes, it's certainly -- I don't  
20 remember specifically, but, in all likelihood,  
21 yes, I would say it's fair.

22 COMMISSIONER EMERY: Usually Mr. Rubenstein  
23 represents people who want good publicity and who  
24 want to be portrayed well in the community and who  
25 need lobbying, because they need certain things

1  
2 from the Board of Estimate and from the various  
3 people who can grant them discretionary bene-  
4 fits; isn't that true?

5 Is there something wrong with that state-  
6 ment?

7 MR. STEIN: No, I think it's a fair state-  
8 ment.

9 COMMISSIONER EMERY: So, you must have known,  
10 just by virtue of the fact that Mr. Bernstein  
11 wanted to have lunch with you, that he wanted  
12 something from you, he wanted something from you  
13 as a City Council President? You must have sus-  
14 pected he wanted something from you?

15 MR. STEIN: Well, in terms of Howard Ruben-  
16 stein, Howard Rubenstein has never played -- has  
17 played a very, very small, very small role in  
18 fundraising in my campaign. He did represent  
19 Mr. Bernstein. I remember that. I don't even  
20 remember what the issues were.

21 But if you're saying that when I went to  
22 lunch with Mr. Bernstein, did I know he wanted  
23 something from me, you know, I just don't re-  
24 member. I mean, obviously I knew that he --  
25 he was in the milieu of doing business with

1 the City, but I don't recall even what the  
2 issues were at the time or what the situa-  
3 tion was at the time.  
4

5 COMMISSIONER EMERY: Putting aside what  
6 the --

7 MR. STEIN: I don't even know what period  
8 of time the lunch took place, if it was before,  
9 or after, or in between, or a long time after,  
10 or a long time before.

11 COMMISSIONER EMERY: What I'm asking you is:  
12 When you went to lunch, you must have had or you  
13 must have believed he wanted to be in your good  
14 graces. Is that fair to say?

15 You have discretionary power on the Board  
16 of Estimate, among other places, and he wanted  
17 to be in your good graces, as a person doing  
18 business with the City?

19 MR. STEIN: I mean, he didn't want to be  
20 in my bad graces. It wouldn't make sense.

21 Again, you know, every individual has a  
22 different perception, and I'm sure he didn't  
23 want to make an enemy of me, but I don't know  
24 what was in his head.

25 COMMISSIONER EMERY: I guess then the question

1  
2 is: After that lunch, at some point, you asked  
3 him for a campaign contribution. It was solicited  
4 of him?

5 MR. STEIN: I don't know that to be a fact.  
6 I mean, I know that at some point he gave to my  
7 campaign. I simply don't recall soliciting a  
8 campaign contribution from him.

9 As I said, we had a dozen fundraisers during  
10 that time. Maybe he responded to the fundraisers.  
11 But I have no recollection of ever asking Bern-  
12 stein for money directly. Maybe I did, but I  
13 don't remember it.

14 COMMISSIONER EMERY: I guess here my point --

15 MR. STEIN: I know your point.

16 COMMISSIONER EMERY: We can cut through it.  
17 On the one hand, you have somebody coming to have  
18 lunch with you who was doing business with the  
19 City, and presumably wants to be in your good  
20 graces or at least not in your bad graces.

21 On the other hand, you have described here  
22 in some detail, in the very beginning of your  
23 statement, that this business of being a politic-  
24 ian in New York City is a very competitive business,  
25 where somebody can go out and raise millions of



1 dollars and has a war chest of \$5,000,000, in  
2 the case of your Congressional race, where it's  
3 a very tough campaign and you need money to get  
4 on television. So, you're another person coming  
5 to that lunch with very specific needs. You need  
6 money to run your future campaign, to maintain  
7 your position as a viable candidate in New York  
8 City politics.  
9

10 Now, putting all propriety quesitons aside  
11 about quid pro quo, isn't it reasonable for us  
12 to assume and for the public to assume that  
13 people are meeting to mutually benefit one  
14 another, and the way they mutually benefit each  
15 other, at least from appearances, is, on the one  
16 hand, one contributes, and on the other hand the  
17 other provides discretionary benefits.

18 If you're at all cynical, you have to believe  
19 that; right?

20 MR. STEIN: Mr. Emery, I base my decision  
21 on the merits of the issue, and if I have one  
22 lunch with somebody or ten lunches with some-  
23 body --

24 COMMISSIONER EMERY: I concede that.

25 MR. STEIN: -- it doesn't matter.

2           There are people who have raised a lot  
3           of money for me, like a Helmsley or like a  
4           Millstein or others, that I voted against,  
5           and, you know, you're dealing in a real world  
6           where it's very hard to put sort of a Chinese  
7           wall up.

8           The fact is that the public has to make a  
9           distinction and a judgment.

10          Mr. Lipper spent over \$2,000,000 on tele-  
11          vision, running ads, trying to portray the kind  
12          of thing that you just mentioned as something  
13          wrong.

14          You know, Andrew Stein did this, that and  
15          the other thing. I won by 26 percent. But  
16          that isn't even the issue.

17          The issue, I believe, is that you can't  
18          legislate integrity. You can change and improve  
19          the law, which is what you're doing now, and I  
20          think that it's a very positive thing, but the  
21          fact is that I have a good record. I don't  
22          think anybody has been more of a tenant's  
23          advocate.

24          You know, I'll give you a little bit of  
25          history. The most important piece of legislation

1  
2 affecting landlords in the last twenty years  
3 was a vacancy decontrol bill that was passed  
4 by Governor Rockefeller in the Republican  
5 Legislature in the early 1970's. It was my  
6 Commission that was able to get that law changed.

7 Before I did the nursing home investigation,  
8 it was that Commission that was able to change  
9 that law, and if we didn't change the law there  
10 would be no more rent control and stabilization.

11 Just in the City Council six months ago,  
12 I got a piece of legislation passed which raised  
13 the fines five times, from twenty-five to one  
14 hundred twenty-five a day for landlords who have  
15 outstanding rent impairing violations, and my  
16 vote in the Board of Estimate -- sometimes it's  
17 been for developers, sometimes against developers,  
18 as I have said, and I believe it's always on the  
19 merits.

20 COMMISSIONER EMERY: I concede it. We have  
21 no evidence whatsoever, I don't think anybody on  
22 this Commission --

T-7 23 MR. STEIN: In terms of perception -- I think  
24 that's what you're referring to -- again, when you  
25 deal with perception, you're dealing with any

2 individual or set of individuals' perceptions,  
3 and different people will look at different  
4 things a different way.

5 I do think that what this Commission is  
6 doing is very beneficial, and I do think that  
7 lowering the limitations is an excellent thing  
8 to do.

9 The public, in terms of perception, frankly,  
10 is probably very upset about spending \$28,000,000  
11 of taxpayers' money on public financing. I  
12 think they're very angry about not funding  
13 drug programs, and police, and fire and other  
14 programs that they -- but that's maybe their  
15 perception. Maybe they're wrong.

16 The thing is that I think that what is  
17 happening is very healthy. The work the  
18 Commission is doing, the focus on this, is  
19 very good, and I think having lower limita-  
20 tions is a very, very good thing, and more  
21 disclosure is a good thing, and I think it's  
22 all beneficial.

23 I might add that whatever has come out  
24 and will come out in terms of changes in the  
25 law, if we go back five years from now and look

1  
2 at it, we're going to see a whole set of differ-  
3 ent problems cropping up, and there's no perfect  
4 answer.

5 I mean, after Watergate you had the Water-  
6 gate Reforms. That created, in my opinion, more  
7 problems in some ways than the old law did, be-  
8 cause it gave the real specialists the ability to  
9 go in and create all the PAC's, and I think you're  
10 hearing testimony now -- Mondale testified and  
11 others that the \$1,000 limitation is too low.  
12 Mondale said it should be raised to \$5,000.

13 But, the PAC's have more influence and  
14 special interests in many ways now than before  
15 the reform. So, it's a complicated issue.

16 COMMISSIONER EMERY: Let me ask you directly  
17 -- and I want to be clear, I am not saying in any  
18 way, shape or form that any campaign contribution  
19 has, in fact, influenced anything you've done.

20 But, we were talking about practices that  
21 our Commission has to make recommendations about,  
22 practices which have to do with the view of the  
23 integrity of government. What I am suggesting  
24 to you is, on occasion you have taken loans to  
25 finance your campaigns. I take it that has

happened on a number of occasions?

MR. STEIN: That's correct.

COMMISSIONER EMERY: On other occasions you have personally and your family has personally loaned your campaign money in order to finance your campaign?

MR. STEIN: That's correct.

COMMISSIONER EMERY: And on some of the occasions where you have personally financed your campaign by loaning it money, when you got contributions, you paid yourself back from those contributions; isn't that the case?

MR. STEIN: That's correct.

COMMISSIONER EMERY: And on some of those occasions, the contributions came in from people, on some of those occasions from people who you voted for on the Board of Estimate. It happened on occasions; isn't that so?

Now, I'm not suggesting there's any relationship between the two, but it happened; isn't that so?

MR. STEIN: I believe so.

COMMISSIONER EMERY: That's a very close nexus from an appearance point of view, isn't it,

1  
2 where you put in your pocket a contribution  
3 that is a repayment of a loan to your campaign  
4 right after you have both voted on a Board of  
5 Estimate matter that benefited the person con-  
6 tributing to your campaign.

7 From a perception point of view, don't you  
8 think that's a grave problem?

9 MR. STEIN: Mr. Emery, politics has not been  
10 a profitable business for me, profitable profess-  
11 ion. I would say over the last ten years I'm out  
12 of pocket over a million dollars. My wife thinks  
13 I'm crazy.

14 In the particular campaign in 1981, I came  
15 out approximately between twenty-five, twenty-six,  
16 \$27,000 on the short end, that I lost on that  
17 campaign.

18 Again, I can only speak for the reality, and  
19 the reality is that I have a good record. I'm  
20 proud of my record. I've never been influenced  
21 by anything but what was correct and the merits  
22 of the issue.

23 If you or others feel there's a perception  
24 problem, I can understand that, I can understand  
25 it, but I can only tell you what the reality is,

1  
2 and that's how I vote.

3 COMMISSIONER EMERY: One more point, and  
4 then I'll leave it to others.

5 We've heard how this new law is going into  
6 effect, went into effect on February 29th, and  
7 that it limits campaign contributions to \$3,000,  
8 but there's a very narrow exception allowing for  
9 unlimited contributions to repay outstanding loans.

10 I believe it's the case -- and I stand  
11 corrected if I'm wrong -- but I believe it's  
12 the case that you have more outstanding loans  
13 than any other official in the City, and that  
14 you're going to be the chief beneficiary of that  
15 loophole in the law, and while I understand also  
16 that there's a rationale that when those loans  
17 were made to you, you didn't have any limits on  
18 you, and then it might be considered a retroactive  
19 application to you -- but what I am asking you is:  
20 if you will consider, hopefully, even make a  
21 statement here today, that because fundraising is  
22 now under -- is legislated here in New York City  
23 to have limits of \$3,000, that you will limit  
24 yourself to \$3,000 per contribution in raising  
25 money to repay those loans?



1  
2 I mean, that, it seems to me, is within the  
3 spirit of the law and the approach of the law,  
4 and it's closing a loophole that you, yourself,  
5 obviously don't think should exist.

6 MR. STEIN: My position is that I don't  
7 think that a politician should make a statement  
8 and interpret the law. I think they should follow  
9 the law. I'm not going to operate under different  
10 rules than anybody else operates. I will operate  
11 under the rules as they exist.

12 But, if the law -- the law allows me from  
13 past campaigns to raise money a certain way, I'm  
14 not going to prohibit myself. I will certainly  
15 -- and I think the reforms have been beneficial.  
16 I certainly will operate -- in many ways the new  
17 laws help me, because I think they help an in-  
18 cumbent who is well known and has a perception  
19 among the people.

20 In many ways the new Public Financing Law  
21 and limitations help an incumbent, but I'm not  
22 going to restrict myself if the law says I don't  
23 have to, because there's no reason for it.

24 COMMISSIONER EMERY: Let me ask you this one  
25 final question, and that is: If you find out that

1  
2 that law applies only to you, and it doesn't  
3 apply to anyone else, nobody is going to challenge  
4 you, nobody else is in government, would you then  
5 limit yourself to the \$3,000 limit?

6 MR. STEIN: I don't see any reason for limit-  
7 ing myself and interpreting of the law as changed.  
8 There's no reason for me to make a special interpre-  
9 tation of the law.

10 (Continued on next page.)  
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2 THE CHAIRMAN: I think, Mr. Stein, he said  
3 in response to my question, it is your intention  
4 to try to eliminate whatever your outstanding debt  
5 is between now and November, if that's possible.

6 MR. STEIN: Yes.

7 THE CHAIRMAN: I believe you said that.

8 THE WITNESS: I did also say that. You made  
9 a suggestion, Mr. Chairman, about recusing yourself  
10 and people with outstanding loans, and I certainly  
11 will consider that.

12 THE CHAIRMAN: I will recognize Judge Meyer.

13 COMMISSIONER MEYER: One way to deal with the  
14 perception problem would be to prohibit anybody who  
15 makes a contribution from dealing with the City.  
16 There are some states that do that kind of thing.  
17 I think it would be somewhat Draconian and, in any  
18 event, at this point, probably a difficult thing to  
19 put in place unless we have full public financing.

20 So, we can put that to one side.

21 There are, however, other ways of controlling  
22 the perception problem, and one of them, which  
23 certainly is applicable so far as the judicial  
24 campaigns are concerned, is: That while the  
25 judicial candidate can appear and perhaps explain

1 his background, when it gets to the point of fund  
2 raising, he moves out and the fund raising is taken  
3 care of by a fund raising chairman, and that chair-  
4 man makes all of the reports to the reporting group,  
5 and those reports are never presented to the  
6 candidate so that he has no knowledge of who the  
7 contributors are.  
8

9 Do you see that as a feasible way of dealing  
10 with the same problem, not only on a judicial  
11 level, but on a legislative level?

12 MR. STEIN: Your Honor, I really don't think  
13 it's realistic. I think that maybe it is for  
14 judicial races, but I think that, whether it's  
15 running for President, where there's a tremendous  
16 amount of personal contact, I've seen it myself,  
17 where at the caucus list they have a thousand  
18 people or hundreds of people committed to raise  
19 \$100,000 and, as they are saying with the Bush  
20 campaign, every campaign I have been involved with,  
21 -- I don't think you can separate personalities  
22 completely. I just don't think it's realistic.

23 I think it sounds good, I think it's idealistic  
24 situation, but I don't think you can take the human  
25 dynamic out of it completely. I don't think it will

1  
2 work. You can't say that the candidate is not  
3 going to have personal relationships with people.

4 When you're friends with people, your kids are  
5 friends with theirs, you have relationships with  
6 them. I mean, I just think it's not realistic to  
7 be able to do that.

8 My own personal opinion is, that a clean law  
9 which would say that nobody can give more than  
10 \$3,000, full disclosure, corporations can't give  
11 more than \$3,000, tighten it up, the corporate  
12 limitation, and so forth, that makes sense because  
13 you're dealing with human beings, and you had a  
14 big federal reform after Watergate.

15 I think it created as many problems as it  
16 solved.

17 You're not going to have any law that is  
18 perfect, and I think what you have to do is, as  
19 this Commission is -- as this Commission is ably  
20 doing -- is look at the situation and make recom-  
21 mendations to try and avoid any problems.

22 But, the fact is, to a certain extent, you  
23 can't legislate integrity. You can have all the  
24 laws in the world. If someone is not going to be  
25 an honest public official, all the laws in the

1  
2 world and changes in the election law, is not going  
3 to have any effect on them.

4 I think that what you're doing is constructive,  
5 it's going to help considerably, but I guarantee  
6 you, when you look at it in three, four years from  
7 now, it's going to create a different set of  
8 problems than you have now because we are dealing  
9 with an imperfect system, we are dealing with human  
10 beings.

11 THE CHAIRMAN: I'm going to bring the session  
12 to a close with a final question from Peter Bienstock.

13 MR. BIENSTOCK: Mr. Stein, are you committed  
14 to accepting public funding in 1989?

15 MR. STEIN: Yes.

16 MR. BIENSTOCK: And, therefore, it makes a  
17 difference to you, does it not, whether you can  
18 pay off your debt in \$3,000 bites or \$50,000 bites;  
19 is that right?

20 MR. STEIN: Peter, it's easier to do it in  
21 \$50,000 bites than it is in \$3,000 bites.

22 MR. BIENSTOCK: Is it your testimony here today  
23 that no conversations and members of your staff had  
24 no conversations, to your knowledge, with members  
25 of the City Council concerning that provision in

2 the law?

3 MR. STEIN: I don't remember any. I'm not  
4 saying that we didn't. I just don't -- I remember  
5 the one issue that we -- that I did, and I remember  
6 lobbying specifically, was the raising of limita-  
7 tions for the City-wide office, because I thought  
8 they were too low, if someone had their own  
9 personal money that went into the campaign.

10 MR. BIENSTOCK: I would like to move briefly  
11 to another subject.

12 Is it your view that it is a legitimate  
13 campaign expenditure, expenditure of the campaign  
14 committee to make contributions to other candidates?

15 MR. STEIN: Absolutely.

16 MR. BIENSTOCK: Are you familiar with whether  
17 or not that's a general practice among your col-  
18 leagues?

19 MR. STEIN: You know, I just know what the  
20 law says, and the law says that if you go to a  
21 function for an Assemblyman or a City Councilman,  
22 that you're allowed to contribute that from your  
23 campaign committee. I don't know what other people  
24 do.

25 MR. BIENSTOCK: You have done that even at a

1  
2 time when you're in debt, your campaign committee  
3 is in debt?

4 MR. STEIN: I imagine so, yes.

5 MR. BIENSTOCK: The final question I have  
6 relates to the funding of the Campaign Finance  
7 Board.

8 What is your commitment to voting on that  
9 \$28 million of funding and for the administration  
10 of the Public Finance Law?

11 MR. STEIN: Well, as you know, we have not  
12 resolved our budget yet. We have a very tough  
13 situation where the City Council has said they  
14 will not pass the Mayor's \$150 million in property  
15 tax, and the Mayor says, "I've cut the police, I've  
16 cut services perhaps to the bone."

17 Bob Morgenthau is very angry because he  
18 requested a million dollars for increased funding  
19 for drug addicted children who are victims of  
20 drugs. He says two-thirds of child abuse cases in  
21 his office take place because of crack. He wants  
22 more money for drug-related homicides, and he says  
23 we are not pursuing the war on drugs vigorously,  
24 all we are doing is talking about it, and he  
25 criticized the Mayor.



1                   So you have a lot of pressures on the budget.  
2  
3                   I certainly think that we should have the money in  
4                   there. As part of it, I think that -- it's not  
5                   essential to have it all in this year, necessarily,  
6                   because you can still do that next year, but I  
7                   certainly think that we should show that we have  
8                   a commitment to it and put a substantial amount of  
9                   money into it, if not all of it.

10                  You do have to understand that while you think  
11                  public financing is important, there are a lot of  
12                  people that think that fighting drugs and AIDS is  
13                  important and helping people is important.

14                  So, there are a lot of pressures, but I  
15                  certainly think that we have to show that we are  
16                  committed to this process, and that if we don't  
17                  fund all of it, we should certainly show enough  
18                  and accompany it with a statement to say that the  
19                  remaining money will be available in the future.

20                  MR. BIENSTOCK: I have nothing further,  
21                  Mr. Chairman.

22                  THE CHAIRMAN: You have been very helpful in  
23                  responding to our many questions. Is there any  
24                  additional statement that you care to make regarding  
25                  the subject of this hearing?

Stein  
Goldin

MR. STEIN: No.

THE CHAIRMAN: I want to thank you for your considerable assistance with Staff and the work of this Commission.

MR. STEIN: Thank you.

(Witness excused.)

THE CHAIRMAN: This hearing is now recessed until 1:30.

(Whereupon, at 12:30 o'clock p.m., a luncheon recess was taken.)

A F T E R N O O N      S E S S I O N

(Time noted: 1:35 o'clock p.m.)

THE CHAIRMAN: This hearing is now in session. The Commission calls Harrison Goldin.

Raise your right hand.

H A R R I S O N      J.      G O L D I N,      called as  
a witness, having been first duly sworn by the  
Chairman, testified as follows:

THE CHAIRMAN: I would like to return to the format that the Commission used this morning which, essentially, involves questions by one of the Senior Staff of the Commission, Peter Bienstock, and following his questions, the different Commissioners will ask additional questions and,

1  
2 of course, you'll have an opportunity, if you wish,  
3 at the end of the questioning, to make a statement.

4 Thank you for being with us.

5 MR. GOLDIN: Thank you very much.

6 THE CHAIRMAN: Peter Bienstock.

7 MR. BIENSTOCK: Mr. Goldin, I want to ask you  
8 questions in three or four different areas, beginning  
9 with the question of the implimentation of the  
10 Goodman Amendment with respect to the management  
11 of the Board of Estimate.

12 I take it that you, as a member who votes,  
13 share responsibility with the other City-wide  
14 officials and Borough Presidents with regard to  
15 the management of the Board of Estimate; is that  
16 right?

17 MR. GOLDIN: Yes, sir.

18 MR. BIENSTOCK: And do you recall that back in  
19 April I wrote a letter to you on behalf of the  
20 Commission, which happens to be Exhibit 53 in the  
21 book in front of you, if you want to refer to it,  
22 and you wrote back to me by letter of May 9th,  
23 which follows that, in which you discussed the  
24 effort that your office had made to assure complaine  
25 with the Goodman Amendment?

1 Do you recall that, sir?

2  
3 MR. GOLDIN: Yes, sir.

4 MR. BIENSTOCK: Now, before I get into the  
5 question of Form 333 and computerization of that,  
6 I want to ask you some questions, generally, about  
7 the record keeping at the Board of Estimate, because  
8 it struck us that it is important to be able to  
9 determine what actions have been taken at the  
10 Board of Estimate, irrespective of whether they are  
11 within or without any particular period as it  
12 relates to the Goodman Amendment.

13 For that purpose, I will refer you to Exhibits  
14 36 and 37, and for those, I believe we have blowups  
15 that can be displayed in front of you.

16 Are you aware, sir, that Exhibit 36 is the  
17 cover sheet of the last Journal of Proceedings of the  
18 Board of Estimate which has been printed and  
19 returned from the printer?

20 MR. GOLDIN: I was not aware of that, but I  
21 will accept the inference in your question that it  
22 is.

23 MR. BIENSTOCK: And are you aware of the fact  
24 that the printing of the Journal of Proceedings  
25 is seven years out of date?

2 MR. GOLDIN: It appears to be.

3 MR. BIENSTOCK: For the record, the date stamp  
4 of when that reached the Municipal Library -- it  
5 is the cover sheet of the Journal of Proceedings  
6 for the period January, 1981 through March of 1981,  
7 which we have discovered reached the particular  
8 library because it had just recently been printed  
9 as of April of 1988.

10 Even more backlogged is the cumulative annual  
11 index by which one can determine, alphabetically,  
12 who had been before the Board of Estimate, and  
13 that's represented by Exhibit 37, and the last  
14 printed index of the Journal of Proceedings is  
15 dated January through December 31, 1976, at a time  
16 when you held the position you hold now, but the  
17 Mayor was Abraham Beame.

18 Were you aware that there has not been a  
19 printed index of the Journal of the Board of  
20 Estimate in the last eleven or twelve years?

21 MR. GOLDIN: I had not specifically focused  
22 on the formalization of the proceedings in the form  
23 that you describe.

24 MR. BIENSTOCK: Well, let me then refer you,  
25 if I might, to Exhibits 41 and 42, and I ask you

2 if you have seen those.

3 Mr. Chairman, perhaps it would be appropriate  
4 to request whether or not there are members of  
5 Mr. Goldin's staff who would be more familiar with  
6 the details, as we have with the other witnesses.

7 MR. GOLDIN: I'm going to answering all the  
8 questions myself, Mr. Chairman.

9 THE CHAIRMAN: All right.

10 MR. GOLDIN: I think I can be helpful to you,  
11 Mr. Bienstock, by telling you that when the Com-  
12 mission very helpfully and appropriately dramatized  
13 the shortcomings in this area, I directed my staff,  
14 particularly in connection with the City Budget  
15 which is now the subject of negotiation for the  
16 fiscal year which will start July 1, to seek an  
17 appropriation which would remedy these difficiencies.

18 In fact, the proposed budget, which was prom-  
19 ulgated by the Mayor, which is known as the Executive  
20 Budget, had no such contemplated appropriation, and  
21 at the very first meeting among the principals  
22 focusing on the Mayor's Executive Budget, at my  
23 direction, one of my representatives raised that  
24 point and said that we felt that there should be  
25 appropriate funding included in the new budget so

1 that this problem could be addressed.

2  
3 MR. BIENSTOCK: And, to your knowledge, are  
4 the documents that are represented by Exhibits 41  
5 and 42, part of the process that ensued thereafter?

6 MR. GOLDIN: Well, when you say, "part of the  
7 process ensued thereafter," I take it that what you  
8 likely mean is, are the recommendations made by the  
9 Secretary part of what I expected would be funded,  
10 and the answer to that is yes.

11 From my standpoint, we should be providing  
12 whatever funding is necessary in order to automate  
13 the system, make it convenient for the public, make  
14 it current and timely.

15 There is, after all, much technology that  
16 would facilitate this process, and it was at my  
17 direction, as I told you a minute ago, that my  
18 representative at the discussions on the budget  
19 in recent weeks and months, urged that the nec-  
20 essary funding be included in the new budget.

21 MR. BIENSTOCK: I'm going to ask you where  
22 that process stands right this minute.

23 MR. GOLDIN: I can tell you that.

24 MR. BIENSTOCK: I want to first refer you to  
25 one sentence in the first page of Exhibit 42 from

Mr. Meekins to the members of the Board of Estimate in which he says, "A decision by Board members on our original proposal for a comprehensive \$2 million automated system seems to have been delayed for the present time."

In the attachment to that exhibit, he says the following -- I do want to read just three paragraphs into the record.

THE CHAIRMAN: What exhibit number?

MR. BIENSTOCK: 42. I'm now going to the second page of that exhibit where he says --

THE WITNESS: When you say the second page of the exhibit, you are referring to the attachment?

MR. BIENSTOCK: Right, the first page of the attachment. It says, "Overview," and I'm going to be reading consecutively, and I don't mean to hold you to the precise words, but I do want to read for the record what Mr. Meekins has told the members of the Board of Estimate.

"The current system of maintaining these records is archaic and increasingly in danger of collapse due to a growing backlog."

Moving to the next page --

MR. GOLDIN: Where are you?



2 THE CHAIRMAN: I can't follow you.

3 MR. GOLDIN: I can't find that, either,  
4 Mr. Bienstock. Could you tell us where you're  
5 reading, please?

6 MR. BIENSTOCK: Exhibit 42 begins with a cover  
7 letter.

8 MR. GOLDIN: Yes.

9 MR. BIENSTOCK: The first page thereafter,  
10 begins with the title "Overview."

11 MR. GOLDIN: Yes.

12 MR. BIENSTOCK: The sentence I just read is  
13 the second sentence following --

14 MR. GOLDIN: Yes, I see that.

15 MR. BIENSTOCK: I'm now skipping to the next  
16 page under Roman II, "Historical Perspective," --

17 MR. GOLDIN: Yes.

18 MR. BIENSTOCK: -- reading the substance of  
19 the first paragraph, --

20 MR. GOLDIN: Okay.

21 MR. BIENSTOCK: -- "On line access to informa-  
22 tion. At present, there is no form of automation  
23 available for tracking, filing and preparation of  
24 a calendar, calendar digest, journal, resolutions,  
25 correspondence, 333 information," which I believe

you and I will agree, has to do with compliance with the Goodman Amendment.

MR. GOLDIN: Yes.

MR. BIENSTOCK: "All procedures are performed manually. These manual systems have been in place for as long as thirty years or more and depend heavily on the experience and accuracy of the key personnel. Even for these personnel, the procedures are time consuming and cumbersome."

Skipping down to the paragraph numbered 3.

"At present, all tracking of submission documents is manually recorded on index cards. These cards must be manually searched for tracking information. It is time consuming both to create and maintain these tracking documents and to retrieve information from them. Backlogs make the process even more inefficient."

Down at the bottom in the paragraph numbered 6 is the statement which we have discussed concerning matters -- that we have discussed concerning how out of date the Journal of Proceedings is.

With that background, Mr. Goldin, I would ask you where we stand today concerning the budget appropriation for automation of the record keeping

1 systems of the Board of Estimate.

2  
3 MR. GOLDIN: Well, first I would say to you,  
4 Mr. Bienstock, that I think Mr. Meekins is either  
5 being diffident or diplomatic, depending on your  
6 point of view. The issue goes beyond the processes  
7 being time consuming and cumbersome and inefficient.

8 The real problem is, there's not a convenient  
9 and accessible system for the retrieval of informa-  
10 tion which the public and others who are interested  
11 are entitled to.

12 The status of the matter is, that as soon as  
13 you tell me I can leave, I am going to be going  
14 down to City Hall where my colleagues will be waiting  
15 for me for a meeting which I am going to attend  
16 at which these matters are going to be focused on,  
17 and for me -- as I told you from the very inception  
18 of this process, the inclusion of adequate funding  
19 so the Board of Estimate's procedures can be  
20 modernized, remains a very high priority.

21 From my standpoint, there are certain costs  
22 of doing business, as I like to put it, in a free  
23 and democratic society, and while there may not be  
24 a substantial constituency for those costs,  
25 responsible public officials have an obligation to

2A-18

Goldin

1  
2 recognize that they are critical, if the processes  
3 are to be discharged sensibly, and to help to  
4 educate the public as to their responsibilities,  
5 and I regard this as one of those.

2-B

6 MR. BIENSTOCK: Is the budget negotiation now  
7 at the \$100,000 stage or the \$2 million stage, if  
8 you know?

9 MR. GOLDIN: The process does not work in  
10 quite that way. I urged, and will continue to urge  
11 that full funding be made available, but we are not  
12 at a stage at which I can say to you that there are  
13 tentative numbers that have yet been introduced.  
14 We are still struggling with trying to bring into  
15 balance a budget that, in all likelihood, as the  
16 Mayor presented it, is not in balance.

17 That represents an unprecedented situation,  
18 in my experience as Controller, has put unusual  
19 pressure on the participants in the process to seek  
20 to balance the Mayor's budget before we even get  
21 to the stage of adjusting numbers and adding  
22 expenditures that we think are critical.

23 MR. BIENSTOCK: Moving with some particularity  
24 to the Goodman Amendment, do you agree with the  
25 principle underlying the Goodman Amendment, that is,

1 that those who do business with the government  
2 should not be making large contributions to officials  
3 who are making decisions about that business?  
4

5 MR. GOLDIN: Well, first, Mr. Bienstock, to  
6 just amplify on a point that is relevant to your  
7 question of me a moment ago.

8 Some months back, I brought to the Mayor's  
9 attention at a meeting that he and I had on general  
10 subjects, not necessarily touching on this, the  
11 inadequacy of the 333 filings that were being made  
12 by his agencies and urged that attention be paid  
13 to that and that it be recognized that it is  
14 important that that whole process be made relevant  
15 and comply with the law.

16 Second, my view, consistent with what I said  
17 to you a minute or two ago is one that I have held  
18 for over two decades in public office. It is that  
19 the public needs to be educated to the notion that  
20 it is important that campaigns for public office,  
21 especially high public office, be financed out of  
22 the public treasury. I took that position when I  
23 was a State Senator; I have taken it repeatedly  
24 as the New York City Controller.

25 I urged on the Sovern Commission in 1986, that

1  
2 it make a major initiative, the urging of the public  
3 financing of campaigns, and the reason for that is  
4 that, in my judgment, there is a deep and dangerous  
5 public distrust of the electoral process that  
6 engenders cynicism that I regard as destructive  
7 to a democratic society arising from the public  
8 sense that electoral office is permeated with  
9 fund raising and that the entire process is for sale.

10 To me, the only way to deal with that effect-  
11 ively is to remove private financing of campaigns,  
12 save for threshold purposes to establish the bona  
13 fides of candidacies, and to move to a system of  
14 total public financing of campaigns.

15 In my judgment, halfway measures suffer from  
16 a variety of disadvantages, and we can get into  
17 some of those in due course, if you like. But I  
18 would favor using this present climate and the  
19 present atmosphere of growing concern for all of  
20 us to mobilize to try to persuade the Legislature  
21 that it should introduce a system of full public  
22 financing of campaigns.

23 MR. BIENSTOCK: We will do that, Mr. Goldin.  
24 We will get into that subject.

25 For the moment, I want to pursue something

1  
2 which may strike you as a little more mundane and  
3 probably is.

4 You mentioned something about the adequacy of  
5 the Form 333. Can you tell us what you find in-  
6 adequate about it?

7 MR. GOLDIN: Well, it's not that the form  
8 itself is inadequate, Mr. Bienstock. Apparently,  
9 the agencies have not been complying in a timely  
10 and sufficient way with the need to file, and it  
11 was that that I called to the Mayor's attention.

12 MR. BIENSTOCK: Would you agree that the form  
13 could be improved by, for example, including the  
14 warning language or language which summarizes the  
15 terms of the Goodman Amendment so that people who  
16 are doing business before the Board of Estimate  
17 would have some warning about what's prohibited?

18 MR. GOLDIN: I believe, Mr. Bienstock, that  
19 it is always useful to apprise people who depend  
20 on and who are governed by statute of what the  
21 statute requires, of what the statute provides, as  
22 fully as possible.

23 As to how that should be presented and to what  
24 the substance of that should be, in my judgment,  
25 it would be useful for us to get the advice of

1  
2 counsel in that regard, because when we are talking  
3 about the interpretation of statutes, I can tell  
4 you, as a lawyer, and as a law professor myself,  
5 that I always prefer to rely on people who are  
6 most conversant with the substance of a particular  
7 law.

8 MR. BIENSTOCK: Has your office done an audit  
9 with respect to compliance of the 333 form?

10 MR. GOLDIN: We have not focused on that  
11 matter for the reason that to us, quite frankly,  
12 without seeing the compliance by the Mayor's  
13 agencies that we felt was warranted, therefore,  
14 until the Mayor is able to secure the compliance  
15 of agencies as warranted, an audit would not be  
16 appropriate or useful.

17 MR. BIENSTOCK: Turning more to the substance  
18 of the Goodman Amendment, is there a reason why  
19 a law like the Goodman Amendment, which puts  
20 certain limits on contributions by those doing  
21 business with the government, should be limited  
22 to those doing business before the Board of Estimate?

23 MR. GOLDIN: Well, as you understand, and  
24 as the Corporation Counsel at the time put it so  
25 well, the Goodman Law is, to put it colloqually,



1 a can of worms. It's a very difficult statute to  
2 rationalize, to interpret, to make consistent with  
3 other provisions of law. When you get into inter-  
4 pretive definitions of what constitutes an applicant,  
5 a problem that arises under the Goodman Law, you  
6 have great difficulty.  
7

8 When you get into questions going beyond that,  
9 of what constitutes doing business with government,  
10 you get into an enormously difficult problem.  
11 Clearly, doing business with government is not just  
12 a function of an immediate application of whatever  
13 nature for an indulgence or otherwise.

14 There are institutions which do business on  
15 an ongoing basis, some of which come to government  
16 from time to time, to the Board of Estimate, to  
17 Municipal agencies for permits. The question is  
18 whether somebody once did business with government,  
19 whether somebody who did not do business with  
20 government before, has a likelihood of doing  
21 business with government in the future.

22 It seems to me that there are enormous inter-  
23 pretive difficulties in that regard, and that begins  
24 to illustrate why it is I believe, although my  
25 belief is somewhat global, as I tried to explain,

2 that the appropriate course is to establish a  
3 system of total financing of campaigns.

4 MR. BIENSTOCK: For the moment, Mr. Goldin,  
5 I do want to focus on where we are today and what  
6 the compliance issues and problems are.

7 Isn't there also a range of discretionary  
8 decisions which don't come before the Board of  
9 Estimate, but which are those types of discretionary  
10 decisions that the Goodman Amendment, at least  
11 in principle, ought to touch?

12 Let me give you just one example close to home,  
13 perhaps.

14 My understanding is, that you have the dis-  
15 cretionary authority to settle items like con-  
16 struction claims against the City prior to litiga-  
17 tion, and our information is, that during the last  
18 campaign, you accepted contributions from construc-  
19 tion firms to the tune of -- a number of contribu-  
20 tions -- to a total tune of \$70,000.

21 Now, because the Board of Estimate is not  
22 involved and because each individual contribution  
23 may have been under \$3,000, the Goodman Amendment  
24 is not implicated, but is that consistent with  
25 the principle -- as we sit here today, is that

1 consistent with the principle that those who do  
2 business with the government should not make con-  
3 tributions in connection with or to the people who  
4 make decisions about the business?  
5

6 MR. GOLDIN: I want to make several points in  
7 response to that, Mr. Bienstock.

8 The first is, that I think it is important to  
9 understand the process accurately. In fact, the  
10 Controller does not unilaterally settle claims.  
11 Under the City Charter, the Controller concurs or  
12 must approve determinations by the Corporation  
13 Counsel respecting the settlement of claims. So,  
14 it is not a unilateral matter by my office, alone.

15 The second --

16 MR. BIENSTOCK: Excuse me. I don't mean to  
17 interrupt. My reference was prior to litigation,  
18 when notice of claim is filed and for thirty days  
19 thereafter, which is the period which, I understand,  
20 is extendable by the Controller, it is my under-  
21 standing, and you would know better, that the  
22 Controller does, in effect, have unilateral authority  
23 to settle those claims.

24 MR. GOLDIN: I think it would be unusual. I  
25 would want to check this, Mr. Bienstock, to be

1  
2 certain that I'm not speaking inaccurately. I  
3 think it would be unusual for us to exercise that  
4 authority in quite that way.

5 But, second, I would point out to you that I  
6 have established a very professional high quality  
7 operation of people who have responsibility for  
8 the settlement of claims. It is not a matter, in  
9 the ordinary course, in which I get involved  
10 directly or personally. I establish policy, to be  
11 sure. I take responsibility for those decisions,  
12 but, in fact, I do have, as I've said to you, a  
13 professional operation, people who are skilled in  
14 these matters.

15 As a matter of fact, there was a major article  
16 in MANHATTAN LAWYER just the other day, I think  
17 it's the current issue. But one of the very  
18 distinguished professionals on my staff, who has  
19 the prerogative, the discretion to make these  
20 settlements, exercises it, and in the ordinary  
21 course, exercises those judgments routinely without  
22 conferring with me.

23 But beyond that, I would point out to you, as  
24 you know, that the Goodman Law does not prohibit  
25 contributions by people who do business with

1 government.

2  
3 MR. BIENSTOCK: I understand.

4 MR. GOLDIN: What it does is simply limit those  
5 contributions. Now, I am troubled by that, as I  
6 have told you, for a variety of reasons. It seems  
7 to me that it is not adequate to say that we are  
8 going to permit people to make contributions of  
9 \$3,000. I think that tends to lull the public  
10 into thinking that there has been major reform and,  
11 in my judgment, makes it only inevitable that there  
12 will be major public disillusionment down the road  
13 because, in the way we know from the federal system,  
14 this process is almost certain to operate.

15 MR. BIENSTOCK: Let me ask you another question  
16 in this regard, and I want to make reference to  
17 Exhibit 48, which I believe we have a blowup of,  
18 which we can display in front of you and which is  
19 in the book in front of you.

20 MR. GOLDIN: Yes, sir.

21 MR. BIENSTOCK: Is it correct that you and  
22 the Mayor have joint authority to select a team  
23 of underwriters for such issues as the City's  
24 General Obligation Bonds?

25 MR. GOLDIN: Yes.

1  
2 MR. BIENSTOCK: And Exhibit 48, is it fair  
3 to say, is a report of yours announcing a decision  
4 which was jointly make by you and the Mayor?

5 MR. GOLDIN: It is one of the forms of announce-  
6 ment that I used, yes.

7 MR. BIENSTOCK: And contributions to you or  
8 the Mayor by those who stand to benefit from the  
9 decisions indicated there, are not covered by the  
10 Goodman Amendment because it's not subject to review  
11 by the Board of Estimate; correct?

12 MR. GOLDIN: This decision by the Mayor and me  
13 would not, as I understand it, be subject to review  
14 by the Board of Estimate. That's correct.

15 MR. BIENSTOCK: And it is fair to say, I think  
16 you will agree, that the decision as to which  
17 firms are listed on this document, on what this  
18 document depicts, stand to gain substantial  
19 financial advantage from that selection?

20 MR. GOLDIN: Is that a question?

21 MR. BIENSTOCK: That's right.

22 MR. GOLDIN: Yes.

23 MR. BIENSTOCK: I don't know if it has been  
24 reported to you, but I want to share with you  
25 what the -- on the subject of affiliated corporate

1 contributions -- what the Mayor testified to this  
2 morning, and I want to get your view with respect  
3 to the new City Public Funding Law.  
4

5 The Mayor's position on the new City Public  
6 Funding Law is, that it can stand an interpretation  
7 by the Campaign Finance Board that the \$3,000  
8 corporate limit is a limit which applies to the  
9 particular corporation giving the contribution and  
10 its affiliates and subsidiaries in the aggregate.

11 Is that your understanding of the corporate  
12 contribution section of the Law?

13 MR. GOLDIN: I would have the same sense as  
14 the Mayor, that the Campaign Finance Board could  
15 probably make such an interpretation. Did the  
16 Mayor indicate to you whether he had in mind that  
17 that would cover PAC's of those corporations?

18 MR. BIENSTOCK: No, he did not.

19 MR. GOLDIN: Did he indicate to you whether he  
20 had in mind that it would cover contributions by  
21 principal officers of those corporations? Did he  
22 indicate to you that he had in mind that it would  
23 cover contributions by directors of those corpor-  
24 ations?

25 MR. BIENSTOCK: Do you have a view on those

1 matters?

2  
3 MR. GOLDIN: My view is that the only way to  
4 go is to prohibit private contributions altogether,  
5 or at least to prohibit contributions by corpora-  
6 tions altogether.

7 MR. BIENSTOCK: Well, let me ask you, then,  
8 what your view is on what your campaign committee  
9 ought to be doing today under this current Public  
10 Funding Law.

11 MR. GOLDIN: I think we are going to have to  
12 await a decision by the Campaign Finance Board.

13 As you know, I have had a moratorium on raising  
14 campaign funds for some time, precisely because of  
15 the enormous ambiguities involved in this area.

16 The state of the law, in my judgment, remains  
17 yet chaotic. I have retained counsel to advise me  
18 on these matters, to assist me in analyzing and  
19 understanding the law. Counsel has advised me  
20 that pending interpretations by the Campaign  
21 Finance Board is virtually impossible to give me  
22 a definitive interpretation.

23 It seems to me that once you get into this  
24 area, all of those questions that I raised, as well  
25 as many others, have to be answered.



1 MR. BIENSTOCK: Absolutely. Is it your  
2 current intention that the moratorium on contribu-  
3 tions will continue?  
4

5 MR. GOLDIN: My moratorium will continue  
6 until I'm advised by counsel that the matter has  
7 been clarified sufficiently in their mind so that  
8 they can give me the kind of guidance that I need  
9 to proceed.

10 MR. BIENSTOCK: With respect to one subject,  
11 now, the question of affiliate and subsidiary  
12 corporations falling under the corporate contribu-  
13 tions law, they have not reached that point?

14 MR. GOLDIN: I have not asked for a breakdown  
15 in various aspects of law. I have asked them that  
16 they should, please, advise me on the matter when  
17 they feel they are in a position to give me the  
18 kind of advice that I need to proceed.

19 MR. BIENSTOCK: You have accepted, have you  
20 not, in the past, campaign contributions from  
21 multiple affiliate corporations; is that fair?

22 MR. GOLDIN: When the law was clear and  
23 unambiguous in that regard, of course.

24 MR. BIENSTOCK: And those included the financial  
25 firms on the tombstone depicted in Exhibit 48?

2 MR. GOLDIN: Some of them, yes.

3 MR. BIENSTOCK: Because of your answer and  
4 the unclear state of the law as far as City-wide  
5 public officials are concerned at the moment, I  
6 want to skip to another subject rather than harp  
7 on affiliate corporations, and that is represented  
8 by a pattern that has turned up in our inquiry  
9 into your filings, particularly with respect to  
10 the financial institutions, and I could focus on  
11 a number of them, but for illustration purposes,  
12 I want to focus on Bear, Stearns.

13 Can we have the blowups of Exhibits 49 and 57?

14 If you would turn, Mr. Goldin, to those  
15 exhibits in the book, Exhibit 49 is a filing of  
16 your campaign committee for the period July, 1984  
17 to January, 1985, and the blowups that are displayed  
18 in front of you relate to contributions received  
19 on August 10th, 1984, which begins on the fourth  
20 and runs over to the fifth page of that particular  
21 filing.

22 MR. GOLDIN: Yes, sir.

23 MR. BIENSTOCK: Skipping the first name,  
24 which is Stuart Zerner, August 10th, 1984 --

25 MR. GOLDIN: That's the fourth entry.

1 MR. BIENSTOCK: Right -- and beginning at  
2 George Sainer and continuing down that page and on  
3 the next page, looking at those names, do you know,  
4 as you sit here today, who those people are?

5 MR. GOLDIN: Well, I recognize a fair number  
6 of the names directly, myself. Some of them are  
7 people I've known for many years.

8 MR. BIENSTOCK: And which ones do you recognize,  
9 if you could just go through them?

10 MR. GOLDIN: Michael Taropol I've known for  
11 many years. Glen Tobias I've known for many years.  
12 Paul Hallingby, Jr., I'm not sure if that's the  
13 Paul Hallingby I know, because I don't know him  
14 as Jr.

15 MR. BIENSTOCK: Do you know who they are  
16 affiliated with?

17 MR. GOLDIN: Judging from the names, they  
18 are people I recognize and have known for many  
19 years. I could read you ones I've known for many  
20 years. They are partners at Bear, Stearns.

21 MR. BIENSTOCK: It would not surprise you if  
22 I told you every name from George Sainer, from the  
23 end of that page, skipping the first name on the  
24 next page, which you have not been able to confirm  
25

2 and, in fairness, therefore, we will not include,  
3 and going down to the next five names, ending with  
4 Paul Weissman --

5 MR. GOLDIN: Yes, sir.

6 MR. BIENSTOCK: -- that depicts twenty-three  
7 \$1,000 contributions?

8 MR. GOLDIN: Yes.

2-C 9 MR. BIENSTOCK: From individuals from New York,  
10 individuals from San Francisco, California, Atlanta,  
11 Georgia, and the like, all of whom are executives  
12 at Bear, Stearns, all of whom came, according to  
13 this filing, to make a \$1,000 contribution on the  
14 same date.

15 Going to Exhibit 57, which is your filing for  
16 the period January 15, 1985 to July 15, 1985,  
17 beginning on the fifth page of that exhibit --

18 MR. GOLDIN: The fifth page.

19 MR. BIENSTOCK: -- which is dated February 8,  
20 1985, beginning with the name Alan Greenberg,  
21 continuing down through the bottom of that page,  
22 including Fred Kayne from Beverly Hills, California;  
23 continuing on the next page at the top to Thomas  
24 O'Connor of Darien, Connecticut.

25 I can present to you that our investigators

2 have confirmed, with some difficulty, I should say,  
3 that that represents on the same day, twenty-five  
4 \$1,000 contributions in the year 1985, all, again,  
5 from executives of Bear, Stearns.

6 My question to you is: How did this come about?

7 MR. GOLDIN: Well, as I've indicated to you,  
8 Mr. Bienstock, I know a fair number of those people  
9 myself, have known them for many years and, as I  
10 think you probably know, a large number of these  
11 people are people with whom I went to school,  
12 college and law school, who were undergraduate with  
13 me at Princeton and whom I went to Yale Law School  
14 with and ended up on Wall Street.

15 I spent a fair number of years myself in the  
16 practice of law on Wall Street. I was at Davis  
17 Polk for seven or eight years. I was in the  
18 finance business. I have a very wide circle of  
19 friends and acquaintances whom I carry with me from  
20 those prior incarnations who are in the finance  
21 business, and when I raise money for political  
22 campaigns, I go to the people whom I know, with  
23 whom I've had associations, and ask if they can  
24 help either by contributing themselves or perhaps  
25 by asking others to contribute, or both.

1 MR. BIENSTOCK: My question is not so much  
2 how did it come that some of these people contributed.  
3 My question is: How did it come about that they  
4 happened to contribute the same amount of money  
5 totally, \$25,000 roughly, each year, on the same  
6 day each year?  
7

8 MR. GOLDIN: Well, as I've indicated to you,  
9 I've indicated to you that it was my practice and  
10 is my practice, when I raise funds for a political  
11 campaign, to go to people whom I know and ask them  
12 if they would be willing to contribute, if they  
13 know others who might be willing to contribute, if  
14 they could ask them, and I would assume that, for  
15 the sake of convenience, that what somebody in that  
16 situation does is try to dispose of the matter at  
17 one fell swoop, and so it would not surprise me,  
18 although I don't know specifically, that they would  
19 do what soliciting they do within a very short  
20 period of time.

21 MR. BIENSTOCK: Do you or do you not recall  
22 any conversation with any one of these people  
23 concerning collecting and delivering contributions  
24 en masse?

25 MR. GOLDIN: Yes, I believe I had a conversation

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2 with Alan Greenberg at one point.

3 MR. BIENSTOCK: Now, one cannot tell, can one,  
4 merely from looking at this filing, what the common  
5 association of these various people is?

6 MR. GOLDIN: No, I would say that the form  
7 is deficient in not reporting, as I understand  
8 the federal form does, that people list their  
9 employer. I think that they are likely, in one  
10 way or another connected, as suggested by the  
11 contributions being the same and by the date being  
12 the same, but that is not adequate, I would agree,  
13 and the form would be a much better form if it  
14 comported with the federal form in the respect to  
15 which I speak.

16 MR. BIENSTOCK: Are you familiar with the  
17 provision in the new Public Funding Law which  
18 requires that the intermediary of campaign con-  
19 tributions be disclosed?

20 MR. GOLDIN: Yes, I am. I regard that as an  
21 insufficient provision. I regard it as a deficient  
22 provision, but I am generally familiar with it,  
23 and I want to explain the respect in which I  
24 regard it as deficient.

25 MR. BIENSTOCK: I was going to ask you if you're

1 aware of whether or not it would cover the situation  
2 depicted here.  
3

4 MR. GOLDIN: It would all depend. As I under-  
5 stand it, that provision is designed to cover  
6 situations in which a single individual forwards  
7 checks to a campaign committee. I do not under-  
8 stand that it is designed to cover a situation in  
9 which a single individual solicits, but in which  
10 the checks are sent in independently or individually.

11 In my judgment, it elevates form over substance  
12 in that regard.

13 MR. BIENSTOCK: Is it fair to say that Bear,  
14 Stearns regularly receives or does business with  
15 the City?

16 MR. GOLDIN: I would say that in one way or  
17 another, most of the major financial institutions,  
18 either directly or indirectly, have an involvement  
19 in City business, yes.

20 MR. BIENSTOCK: Bear, Stearns is, of course,  
21 at the first tier or just below the first tier  
22 as an investment firm on the recent \$2.1 billion --

23 MR. GOLDIN: It is what we call a first tier  
24 underwriter, just below the managing underwriters.

25 MR. BIENSTOCK: And are you aware that



2 Bear, Stearns was awarded a \$430,000 contract as  
3 an investment advisor to the Police Pension Fund  
4 in April of 1987?

5 MR. GOLDIN: Mr. Bienstock, I think fairness  
6 ought to impel me, if not you, to note at this  
7 point that the selection process in all of these  
8 matters is one in which I am not involved directly,  
9 is one in which there are professionals who handle  
10 these matters through an RFP process on an objective  
11 basis and who make the decision without interference  
12 by me.

13 MR. BIENSTOCK: That's true. But you do  
14 retain the right to make the final -- you do have  
15 the authority to make the final decision?

16 MR. GOLDIN: That's correct, and it is made  
17 pursuant to my authority.

18 MR. BIENSTOCK: My point is not to suggest  
19 anything other than -- were this a Board of  
20 Estimate decision or were this a matter of con-  
21 tributions greater than the \$3,000 that would fall  
22 into the Goodman Amendment, and these various  
23 decisions we discussed that are either not Board  
24 of Estimate decisions or involve contributions  
25 which aren't aggregated under the Goodman Amendment,

1 like the twenty-five \$1,000 contributions or  
2 affiliate corporate contributions that I can point  
3 to, the Goodman Amendment is not involved, and  
4 that's my only --  
5

6 MR. GOLDIN: I think before, we -- at least  
7 before, I left the mistaken impression which some  
8 might gather, that it would be a different situation  
9 of the Goodman Law, by its terms, covered this  
10 matter. We ought to point out that it really would  
11 not, because the Goodman Law, as I understand it,  
12 limits contributions under certain circumstances  
13 to \$3,000 and, as you note, these contributions  
14 were each individually \$1,000, and as we agreed  
15 earlier, at least as I posited for you earlier,  
16 I didn't hear you disagree, the law is chaotic,  
17 especially as it related to the interrelationship  
18 among the Goodman Amendment, that Goodman Law, the  
19 State Election Law itself, the City Election Law  
20 as it relates to the contributions of entities,  
21 participants in entities, officers of entities,  
22 partners of entities.

23 I'm not certain what the point is respecting  
24 the failure of the Goodman Law to cover this  
25 situation because I don't understand why it would

2 be any different if it did.

3 MR. BIENSTOCK: Do you have a view as to  
4 whether the Goodman Amendment deals with aggregate  
5 affiliate corporate contributions?

6 MR. GOLDIN: As I tried to indicate to you  
7 earlier, as I understand it, and I haven't studied  
8 this matter myself thoroughly, but from counsel,  
9 who tried to explain to me why this is such a  
10 chaotic situation, the Goodman Law seems to take  
11 a kind of global approach, the thrusting towards,  
12 if not approaching in an artful form, the SEC, the  
13 Securities Law definition of what constitutes an  
14 entity. It uses the notion of applicant. The  
15 Election Law, as you know, uses the notion of an  
16 individual, either corporate or non-corporate  
17 entity, as a contributor.

18 The City Council Law has another concept to it.  
19 It is very difficult to rationalize how these  
20 statutes are to be understood and, indeed, as you  
21 know, the then Corporation Counsel, I believe,  
22 referred to this earlier, Frederick Schwarz,  
23 adverted to this chaos and to what I called earlier  
24 this afternoon, the can of worms implicit in the  
25 Goodman Law, shortly after it was enacted in a

2 memorandum to the members of the Board of Estimate.

3 MR. BIENSTOCK: I couldn't agree with you more,  
4 Mr. Goldin, in what you just said. Let me try to  
5 cut through what sometimes is viewed as legalistic  
6 conversations between us.

7 MR. GOLDIN; We have the disadvantage of being  
8 lawyers, both of us.

9 MR. BIENSTOCK: I'm sure. Your filings  
10 indicate that in the last campaign, you accepted  
11 \$300,000 in contributions from the firm which  
12 turned out thereafter to be selected for the  
13 \$2.1 billion bond issue. None of it, as best I  
14 can tell, is illegal, none of it, and I don't mean  
15 to imply that.

16 My question is: Is that a good thing from  
17 the point of view of the perception of the public?

18 MR. GOLDIN: Mr. Bienstock, in my judgment,  
19 the entire process of private financing of campaigns  
20 is replete with the kinds of ambiguities, the kinds  
21 of uncertainties, the kinds of doubts that give  
22 rise to enormous public skepticism as to the  
23 decency of the whole process.

24 In my judgment, there is only one remedy that  
25 is calculated to cut through that, and that is for

1 all who recognize that to mobilize to help to  
2 explain that to the Legislature and to insist on  
3 public financing of campaigns.  
4

5 I have not found that the efforts, to date,  
6 to slice the salami thin, or to slice it in different  
7 ways, produce a result calculated to restore public  
8 confidence so that the process is free from the  
9 taint of private money, and I think that ought to  
10 be a primary objective coming out of this process.

11 MR. BIENSTOCK: Let me try to slice the salami  
12 one more time.

13 In several other states and in the federal  
14 government, there is an absolute flat provision on  
15 those doing business with the government making  
16 campaign contributions.

17 Do you have a view as to why New York shouldn't  
18 go to that rule in the interim, before it reaches  
19 your --

20 MR. GOLDIN: Well, I've seen testimony,  
21 Mr. Bienstock, from people who have been candid  
22 who have participated in the system, have given us  
23 great reason to doubt that it is an honest system.

24 I recall reading at the time that Barber Conable,  
25 the distinguished --

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MR. BIENSTOCK: You're referring to the federal system?

MR. GOLDIN: The federal system. -- the distinguished ranking member of the House Ways and Means Committee, now head of the World Bank, was nominated for his current position, he gave an interview in THE NEW YORK TIMES in which he described the federal system of campaign contributions, which helps explain why people are so cynical about this process of private campaign contributions.

Mr. Conable, as I recollect, said that at one point he was offered a contribution -- and I'm giving this to you to the best of my recollection -- he was offered a contribution by a corporate executive. He told the corporate executive that for one reason or another, he was not accepting contributions from that corporation or could not accept a contribution from that corporation.

MR. BIENSTOCK: I should remind you, sir, that in the federal system, corporate contributions are prohibited.

MR. GOLDIN: Well, it may have been a defense contractor or it may have been a corporation. Apparently, the contribution was either prohibited

1 or the contribution was considered unwarranted by  
2 Mr. Conable. Mr. Conable said, as I recollect,  
3 that shortly thereafter, he began getting unsolicited  
4 contributions in the amount of \$150, or whatever  
5 dollars it was, from corporate executives all  
6 over the United States, it came in over the transom,  
7 and it was clear to him -- the inference in the  
8 interview that he gave THE TIMES was, that this  
9 represented an evasion -- evasion may not be the  
10 right word -- an avoidance of the provision.  
11

12 And I suspect from what I have heard, anecdot-  
13 ally, that the federal system is replete with that,  
14 that the provision against corporate contributions,  
15 that the provision against contributions by defense  
16 contractors, leads those who are unable to make  
17 the contribution but who are asked for help by  
18 candidates who are either incumbents or challengers,  
19 to find all kinds of avoidance devices.

20 It seems to me that that is a highly undesir-  
21 able byproduct of a system in which we fail to  
22 recognize that only public financing will convince  
23 the public that the system is honest and above  
24 doubt.

25 MR. BIENSTOCK: I want to move on, Mr. Goldin,

1 and ask you some questions about your past fund  
2 raising activity. Let me ask you this: When did  
3 you put in place your moratorium on accepting  
4 contributions?  
5

6 MR. GOLDIN: Well, my recollection is that it  
7 was sometime in 1986.

8 MR. BIENSTOCK: And it is the case that at  
9 that time and presently, you did have a balance,  
10 shall we say, in your campaign account; is that  
11 right?

12 MR. GOLDIN: Yes, but, obviously, I expect to  
13 be a candidate in 1989, and the cost of elections  
14 has become much more expensive.

15 If you will permit me to give you this, which  
16 I think will give you some perspective, my recol-  
17 lection is that in 1973, when I was first elected  
18 Controller, a heavy week, what I would regard a  
19 saturation week of radio and television in this  
20 market, cost \$25,000.

21 In 1981, which is a year that I have in mind  
22 specifically, my recollection is, just eight years  
23 later, the cost of a similar week of radio and  
24 television advertising in this market had risen  
25 ten times to \$250,000, and I suspect it is even



considerably higher than that today.

So, if the inference of your question is that the reason for the moratorium was because I had a carryover balance that I had not used in 1985, that is incorrect.

MR. BIENSTOCK: Let me ask you this, however.

Can you tell us the reason why you used more than one campaign committee in your past campaigns?

MR. GOLDIN: Well, my recollection is that in each of the campaigns, and I've run in many, many campaigns over the years, I've tried to aggregate them, but I can give you a sense of it.

I ran in a primary in 1964, a primary and a general election in '65. A primary and a general election in 1966; a primary and a general election in 1968; a primary election in 1969; a general election in 1970; a general election in 1972; a primary and a general election in 1973; a general election in 1977; a primary and a general election in 1988. I could keep going.

My recollection is that, for convenience purposes, as these elections occurred, a committee would be created, and we simply never closed out committees, or they were rarely closed out, or

1 they were not uniformly routinely closed out and,  
2 as a result, I have carryover committees, in effect,  
3 that have simply continued in existence.  
4

5 MR. BIENSTOCK: Is it your testimony that those  
6 are not active, that more than one of them are not  
7 active?

8 MR. GOLDIN: Many of them are not active. I  
9 cannot say that all of them are not active. Many  
10 are not active.

11 MR. BIENSTOCK: Your filings reflect that in  
12 1981 that you had four campaign committees with  
13 perhaps -- or, perhaps even two of them may have  
14 been inactive, but at least of them were active,  
15 and in 1985, you had two, both of which, it is my  
16 understanding, were active.

17 MR. GOLDIN: Well, again, because I had under-  
18 stood that the focus of this proceeding was going  
19 to be from 1983 forward, I'm not conversant of  
20 what may have happened before then, but my recol-  
21 lection is that we had a receiving committee and  
22 a disbursing committee. That is my best recollec-  
23 tion, and that may help to explain the reason for  
24 that dichotomy.

25 MR. BIENSTOCK: Don't multiple committees

1  
2 make it harder for the public to track campaign  
3 financing activity?

4 MR. GOLDIN: Not as I understand it. My  
5 understanding is that when a member of the press  
6 or an interested citizen or whomever, goes to the  
7 appropriate filing location and asks for committee  
8 filings based on the name of the candidate, that  
9 they are kept on the basis of the name of the  
10 candidate and supplied on that basis. That has  
11 always been my understanding.

12 MR. BIENSTOCK: I understand that you have not  
13 received contributions since 1986. My next question  
14 is: Having had that experience, and putting aside,  
15 just for the moment, the notion of fully financed  
16 public campaigns, and assuming that we are going  
17 to continue for at least the present with at least  
18 partial reliance on private contributions, would  
19 you favor a ban on off-year fund raising?

20 MR. GOLDIN: I think that would be a great  
21 mistake.

22 MR. BIENSTOCK: Why is that, sir?

23 MR. GOLDIN: Because, as you can tell from  
24 the extensive work that you have done, fund raising  
25 is a time consuming matter. It involves lots of

2 meetings, lots of inquiries. As it is, the public  
3 business suffers to a degree during campaigns when  
4 incumbents, challengers who may be public office  
5 holders, are obliged to devote themselves to a  
6 considerable degree to the election process, to  
7 educating the public, to soliciting votes.

8 It seems to me that compressing fund raising  
9 into a short period would simply disrupt fully and  
10 perhaps result in the suspension of the public  
11 business.

12 As matters stand, because there's not neces-  
13 sarily such pressure to conduct all of the fund  
14 raising activity at one time shortly before the  
15 election, it can be handled on a much more leisurely  
16 basis over a prolonged period of time and becomes  
17 much less disruptive.

18 MR. BIENSTOCK: Well, while you have had a  
19 moratorium for about two years on campaign con-  
20 tributions, there has been activity, I think you'll  
21 agree, on the expenditures side.

22 MR. GOLDIN: Correct, in anticipation of fund  
23 raising activity.

24 MR. BIENSTOCK: That's what I want to ask you  
25 about. Your records indicate that you hosted a

2 party on July 16, 1987 at the Metropolitan Museum  
3 of Art which was paid for out of campaign funds to  
4 the tune of about \$35,000.

5 Can you tell us the purpose of that expenditure?

6 MR. GOLDIN: Yes, sir. As the Committee knows,  
7 or, Commission knows well, it is the practice of  
8 many candidates to hold fund raisers at least on  
9 an annual basis to which they sell tickets. I tend  
10 to not do that. I tend to hold fund raising type  
11 functions for contributors who have either con-  
12 tributed in the past or contributors whom I antici-  
13 pate will contribute in the future. It's to enable  
14 me to maintain an association in a context with  
15 contributors that is removed from my official duties  
16 and, therefore, is comfortable for me.

17 They all understand that it is related to  
18 fund raising, although there is no direct fund  
19 raising, necessarily, at the function.

20 MR. BIENSTOCK: You accept pledges for future  
21 contributions at such functions?

22 MR. GOLDIN: Well, it can happen and has  
23 happened at such functions that people have said  
24 to me: Well, when am I going to be asked for the  
25 check?

1  
2 MR. BIENSTOCK: And what did you say?

3 MR. GOLDIN: I've said, "Be patient."

4 MR. BIENSTOCK: Exhibit 58 in the book in  
5 front of you is the guest list for the Metropolitan  
6 Museum function, and I think you would agree that  
7 that guest list includes many prominent members of  
8 the financial community. The guest list also  
9 includes prominent lobbyists.

10 Let me ask you about lobbyists. Do you think  
11 that lobbyists should be engaged in fund raising  
12 for officials for whom they lobby?

13 MR. GOLDIN: Well, again, Mr. Bienstock, you  
14 get into such enormous difficulty in definition.  
15 We are not speaking now colloqually, we are speaking  
16 as people who are lawyers and who are really  
17 anticipating how you would formulate and how you  
18 would define --

19 MR. BIENSTOCK: I would accept the City Ordin-  
20 ance definition of those who are required to  
21 register.

22 MR. GOLDIN: I think there is an argument,  
23 that if people are required to register, that they  
24 ought not to be treated any differently than any-  
25 body else. There is no reason I can see, particularly,

2 to treat them differently than their clients.

3 MR. BIENSTOCK: Are you familiar with  
4 Howard Rubinstein's position, recent position on  
5 this question?

6 MR. GOLDIN: Am I familiar with his substantive  
7 position on this issue?

8 MR. BIENSTOCK: On the question of whether  
9 or not lobbyists should be engaged in fund raising.

10 MR. GOLDIN: Well, it would not surprise me  
11 to learn that Mr. Rubenstein would not mind if  
12 there were a statute that precluded him from fund  
13 raising. I don't know that that's his position.  
14 I see that he's in the room. I'm sure that you  
15 can ask him.

16 MR. BIENSTOCK: I want to focus just for a  
17 moment on the new Public Funding Law.

18 Did your office get involved in lobbying  
19 concerning any provision of that law?

20 MR. GOLDIN: I don't know that my office did,  
21 but I did.

22 MR. BIENSTOCK: Can you tell us the extent  
23 of that?

24 MR. GOLDIN: Yes. I spoke to the Majority  
25 Leader of the City Council on the matter on a

couple of occasions.

MR. BIENSTOCK: Did any of those conversations have to do with the provision for the use for matching purposes of funds accumulated prior to the effective date of the law?

MR. GOLDIN: Yes, among other things. Yes.

MR. BIENSTOCK: What were the nature of your conversations?

MR. GOLDIN: I understood that the Mayor was lobbying extensively in preventing me from being able to use any of the carryover funds, unexpensed from my 1985 campaign and future campaigns, and I indicated to the Majority Leader that I did not think that would be fair.

I also indicated to the Majority Leader that the limit on City-wide elections, that I had understood the Mayor was lobbying for vigorously, might warrant suspending the election.

MR. BIENSTOCK: Because they would do well?

MR. GOLDIN: That is correct.

MR. BIENSTOCK: Moving back to what we fondly refer to as the "war chest" provision, can you tell us the reason or relate to us what you told Mr. Vallone as to the substance of why it would be



1  
2 unfair?

3 MR. GOLDIN: I can't recall specifically my  
4 words to Mr. Vallone, but I will tell you the  
5 substance of my view on the matter, which is  
6 essentially what I think you're interested in.

7 MR. BIENSTOCK: Fine.

8 MR. GOLDIN: In connection with my 1985  
9 campaign, when I became engaged in the bulk of  
10 the fund raising program, I did not know who my  
11 opponent would be. There was talk of a man of  
12 immense personal wealth running against me at one  
13 juncture. In the end, he did not run against me.  
14 But I anticipated that I might very well need  
15 substantial funding for a closely contested race  
16 for re-election, if that might turn out to be  
17 true.

18 I also disclosed to people from whom I raised  
19 money early on, that I would use the funding either  
20 for Controller or for Mayor. As you know, in the  
21 end, although somebody began to run against me,  
22 that person did not go through the process.

23 As a result, I decided that it didn't make  
24 much sense simply to shovel out the money, to get  
25 rid of it, that it would be foolish to just try

2 to spend money to end up with none in the account,  
3 and that the sensible thing to do was to husband  
4 those resources until they became needed in a  
5 campaign in which I would be obliged to spend them.

6 MR. BIENSTOCK: And do you believe it would  
7 be unfair to prohibit you from applying those funds  
8 for the purpose of getting --

9 MR. GOLDIN: That money was raised under the  
10 applicable statutes and regulations. It was raised  
11 in anticipation of a campaign in which I thought  
12 I might need the money, which it turned out I did  
13 not. The disclosure was made fully to people that  
14 the money would be used either in a campaign for  
15 re-election or in a campaign for Mayor.

16 MR. BIENSTOCK: Excuse me. I'm not referring  
17 to whether or not the money could be spent in a  
18 subsequent campaign. I'm referring solely to the  
19 provision which allows you to apply a portion of  
20 those funds to get to be matched by public funds.

21 MR. GOLDIN: I misunderstood. That's a matter  
22 of what the statute permits, and it's exactly that  
23 kind of issue that I've asked counsel to advise me  
24 on. I am awaiting counsel's interpretation as to  
25 the applicability of the funding from that

2 standpoint.

3 MR. BIENSTOCK: Maybe I misunderstood, because  
4 my question related to the change in the law from  
5 the Mayor's original proposal.

6 Let me try to go through it again.

7 MR. GOLDIN: Let me say to you, Mr. Bienstock,  
8 that I'm not nearly so conversant as you are in  
9 the various versions of the statute.

10 MR. BIENSTOCK: Let me try to summarize, if  
11 I can. The original Bill which was drafted by the  
12 Corporation Counsel proposed by the Mayor would  
13 have permitted the use of a portion of the funds  
14 that had been received prior to the effective date  
15 of the law, but would not have permitted those funds  
16 to be used for the purpose of matching.

17 An amendment to the law, which was put onto  
18 the law before it passed the City Council, changes  
19 not whether the money, or to what extent, as far  
20 as I know, the money could be spent, but whether  
21 or not a portion of the money can be matched by  
22 public funds.

23 MR. GOLDIN: And that amendment, I gather,  
24 passed.

25 MR. BIENSTOCK: Yes, the money in the campaign

2 coffer on the effective date of the law.

3 MR. GOLDIN: Yes.

4 MR. BIENSTOCK: And I thought I heard you say  
5 that you had lobbied with Mr. Vallone to have that  
6 change come into effect.

7 MR. GOLDIN: Either I didn't understand your  
8 question or you didn't understand my answer or  
9 it wasn't clear.

10 In any event, I don't think that I got that  
11 specific with Mr. Vallone. I indicated to  
12 Mr. Vallone that I felt it would be unfair to  
13 preclude a candidate who had not expended money  
14 that had been raised for a prior campaign, that  
15 had been raised properly and appropriately, where  
16 full disclosure had been made, from utilizing that  
17 funding.

18 I did not get into specifics in the kind of  
19 detail you describe.

20 I understood the Mayor was lobbying vigorously  
21 at that point to restrict the use of such funding.  
22 I did not think that was fair.

23 MR. BIENSTOCK: I have one final subject,  
24 and I apologize to the Chairman. I just realized  
25 I have gone over my time.

Goldin

1 In March, I'm interested to know if you're  
2 aware, there was testimony before this Commission  
3 concerning your personal fund raising techniques,  
4 and I think it's only fair for me to ask you at  
5 this juncture whether or not you believe that when  
6 a public official who, necessarily, must exercise  
7 discretion over a large number of matters in which  
8 some businesses stand to gain and others stand to  
9 lose enormous sums, when a public official personally  
10 solicits campaign contributions from the men and  
11 women who run those businesses on a one-to-one  
12 basis, there is not at least the possibility that  
13 those being solicited will feel pressure to give  
14 the contribution requested.  
15

16 MR. GOLDIN: Well, this Commission, I think,  
17 dealt very faultfully with the conundrum implicit  
18 with that issue in its interim report last December.  
19 There is an interesting and provocative comment on  
20 page 20 of the report.

3A 21 The last sentence at the end of the first full  
22 paragraph says, "Current law is seriously deficient  
23 in this respect because only the most naive could  
24 fail to recognize that public officials who owed  
25 their electable success to these individuals, those



2 March to the effect that somebody who contributes,  
3 certainly in size, wants the chance to question the  
4 candidate about his or her policies. I don't see  
5 why it is preferable to have the candidate walk  
6 out of the room and have -- go through the fiction  
7 of having a third party ask for the funding with  
8 the candidate having left the room.

9 I think the Commission dealt with one of the  
10 problems that engenders in the report to which  
11 I just referred.

12 MR. BIENSTOCK: With the Chairman's permission,  
13 I would like to ask one final question.

14 THE CHAIRMAN: Go ahead.

15 MR. BIENSTOCK: Your proposals for full and  
16 complete public funding, your idea, we have heard  
17 testimony today that the \$28 million budget for  
18 partial voluntary funding, I think it is fair to  
19 characterize the testimony, is that that budget  
20 appropriation of \$28 million is in some jeopardy.

21 MR. GOLDIN: It should be. It doesn't belong  
22 in the budget.

23 MR. BIENSTOCK: You believe that the State  
24 should fund it?

25 MR. GOLDIN: No. As I think you know, there

2 is no anticipation that dime of that is going to  
3 be spent in the fiscal year that is going to start  
4 July 1. I fail to understand why the City should  
5 set aside funding for a purpose that will not be  
6 met in the fiscal year in which the money is  
7 designated. It makes no sense.

8 MR. BIENSTOCK: Putting aside the question  
9 of the fiscal year.

10 MR. GOLDIN: Doesn't dismiss that unless as  
11 a detail, that is the issue.

12 MR. BIENSTOCK: I understand.

13 Do you think it is feasible for the City to  
14 fund a full public funding program?

15 MR. GOLDIN: Absolutely. It is feasible, it  
16 is essential, it is very difficult to put a price  
17 on the restoration of public confidence in the  
18 democratic process.

19 We are suffering in this country, and we are  
20 suffering particularly badly in the City, from a  
21 constant, a steady erosion of public participation  
22 in the electoral process. I regard that as a very  
23 dangerous thing.

24 I don't want to be melodramatic, but in my  
25 judgment, that is a destruction of democratic



2 institutions and needs to be dealt with promptly  
3 and dramatically.

4 The public has to be convinced that the system  
5 has been totally and fundamentally reformed, that  
6 private money has been removed from the process,  
7 that they can have confidence that candidates for  
8 public office stand before them having been funded  
9 by the public treasury.

10 To the extent that I am told that the public  
11 is not for it, the public hasn't been educated to  
12 accept it. My response is that that is part of the  
13 job of public officials, to help educate the public.

14 I welcome this kind of commission, as I  
15 welcomed the Sovern Commission, because it seems  
16 to me that these instruments can be absolutely  
17 indispensable in this process of public education.

18 I worry about an expediency through which we  
19 create what people think is half a loaf, which  
20 creates public expectations that the system has  
21 been totally reformed. Which, in the end, in my  
22 mind, almost assures disillusioning the public  
23 even further when it finds that the kinds of  
24 ambiguities, and the kinds of risk that we can  
25 anticipate up front are implicit in the system,

2 have led to its exploitation.

3 MR. BIENSTOCK: Given your position, sir, are  
4 you committed to accepting public funding in 1989?

5 MR. GOLDIN: I'm going to comply with the new  
6 statutory arrangement fully.

7 MR. BIENSTOCK: Is that an affirmative answer  
8 to my question about whether you are committed to  
9 accepting public funding?

10 MR. GOLDIN: I expect to comply with the  
11 statutory arrangement. As I told you, I am awaiting  
12 the advice of counsel on the thrust of this  
13 new statutory arrangement, State, City, the Goodman  
14 Law, and I expect to comply with it.

15 I have not yet focused on the extent or nature,  
16 or cast of that participation, but I expect to  
17 comply with it.

18 MR. BIENSTOCK: I don't mean to quibble, we  
19 haven't so far, and I didn't mean to start it in  
20 the last question. You understand, I am sure, that  
21 the public funding component of the new City Bill  
22 is voluntary. That is one --

23 MR. GOLDIN: I am not quibbling with you or  
24 toying with you. I expect to comply with the  
25 statute, voluntary or not, I expect to comply with it.

MR. BIENSTOCK: You expect to accept public funding?

MR. GOLDIN: I expect to comply with the statute.

MR. BIENSTOCK: Thank you, Mr. Goldin.

I have no further questions.

THE CHAIRMAN: Thank you very much.

Before turning it over to some of the other Commissioners, you made some comments about your views as to the new budget, and it is not my intention to really get into the details of the new budget.

I assume that you fully support the notion that the new agency that has been created, should be fully effective in the sense of staff support, computerization, those administrative functions that need to be dealt into an agency to make it effective?

MR. GOLDIN: The best way I can respond to it is by telling you that during the depths of the City's fiscal difficulties in the late 1970's I fully supported expenditures by the City and it ran into millions of dollars, to create systems that would allow the City to function, even though

2 there was no broad public support for those  
3 functions.

4 I feel the same way about our expending the  
5 relatively modest sums that are necessary in order  
6 to restore integrity to the electoral process.

7 My judgment is, we can afford to expend those  
8 monies. Indeed, I would look at it differently and  
9 say that we cannot afford not to.

10 THE CHAIRMAN: Thank you.

11 I had a series of questions with the Mayor,  
12 and we had a number of responses concerning the  
13 so-called money that he has accumulated.

14 In the colloquy we had, it seemed to me, in  
15 any event, that there was some common ground that  
16 there might be money left over because the new  
17 public law for the City limits the amount of the  
18 "war chest" that could be used if one accepts public  
19 financing.

20 Our Staff has informed me that according to  
21 their information, the amount that could be used  
22 for matching gift purposes, that is part of your  
23 "war chest" is really a small amount compared to  
24 the totality of the "war chest." That leads me  
25 to my conclusion that you may very well have a

1  
2 substantial amount of money left over if you go  
3 through the new public financing system.

4 I recognize what you said about wanting to  
5 be guided by counsel, which is something that  
6 certainly one ought to do in this area, but have  
7 you thought about the range of possibilities as  
8 the use you might make of any excess monies that  
9 don't become part of your campaign under the new  
10 Public Finance Law?

11 The Mayor, for example, said, with reference  
12 to money that he doesn't use for campaign purposes,  
13 he believes he will probably contribute that to  
14 charity.

15 MR. GOLDIN: I have not thought about the issue  
16 in that kind of detail, Mr. Chairman.

17 As you acknowledge inferentially, you are  
18 a couple of steps ahead of me, my counsel has not  
19 given me the advice that you have, apparently,  
20 gotten from Commission Staff. I have great regard  
21 for the people who are looking at the matter for  
22 me, they have told me that the areas are replete  
23 with uncertainties, ambiguities, they are going to  
24 have to consult, hopefully, with the Campaign  
25 Finance Board. They are awaiting it being in place.

2 It is much delayed.

3 That troubles me, I might say to you, I don't  
4 know why it should be so delayed. I regard that  
5 as a matter of great concern. It should have been  
6 a priority to get that Board functioning. It  
7 shouldn't be functioning so inadequately in terms  
8 of resources. I don't know why that is happening,  
9 and I am troubled that it is happening.

10 THE CHAIRMAN: Thank you.

11 Commissioner Hynes.

12 COMMISSIONER HYNES: I just have one question.

13 I realize that you are waiting for counsel  
14 to give you advice on the new City Public Funding  
15 Law, but let us assume for purposes of argument,  
16 there is an ambiguity, and your counsel tells you  
17 that there is ambiguity as to whether you can accept  
18 a corporate donation from subsidiaries and affil-  
19 iates of a corporation.

20 In other words, that it is open for your to  
21 accept contributions from subsidiaries and affiliates.

22 Would you voluntarily make a determination  
23 for your own campaign that you would limit the  
24 corporate contributions to \$3,000, and that would  
25 include subsidiaries and affiliates?

1 MR. GOLDIN: Ms. Hynes, this is exactly the  
2 kind of question that has to be resolved by the  
3 Campaign Finance Board, and it should be resolved  
4 by them.  
5

6 When I began my colloquy with Mr. Bienstock  
7 at the outset, I indicated that there are so many  
8 questions that are subsumed in that question  
9 relating to corporate PAC's, corporate officers  
10 who dominate the company, is it appropriate to  
11 accept a contribution from a corporation, and then  
12 to accept a contribution on top of that from the  
13 dominant stockholder in the corporation, or officers  
14 of the corporation?

15 What about suppliers to the corporation? What  
16 about the lawyers of the corporation, the account-  
17 ants?

18 It seems to me that this is the kind of issue  
19 that has got to be dealt with, and should be re-  
20 solved by the Financial Control Board. I hope it  
21 is. I don't plan to take a position prematurely  
22 without getting the best information, the best  
23 resolution that I can, that would give me a  
24 definitive situation upon which I can make a  
25 judgment.

2 COMMISSIONER HYNES: The reason I raised it  
3 is, this morning the Mayor said that it would be  
4 his position with respect to his campaign that he  
5 would limit corporate contributions to \$3,000,  
6 and that would include subsidiaries and affiliates.  
7 That was the reason for my question, if you would  
8 follow that course of conduct.

9 MR. GOLDIN: You heard me respond to Mr. Bien-  
10 stock's formulation by asking whether the Mayor  
11 had been probed on what he really means by that,  
12 and whether he had thought that through, and what  
13 that covered, what did it not cover.

14 Mr. Bienstock indicated to me that there had  
15 been no follow-up with the Mayor on that, the issue  
16 had been left unresolved.

17 I would hope that it would be resolved, and  
18 it seems to me that the appropriate way to resolve  
19 it is through the Campaign Finance Board. That is  
20 exactly why it was created.

21 THE CHAIRMAN: Commissioner Magavern.

22 COMMISSIONER MAGAVERN: Mr. Goldin, have you  
23 reviewed the transcript of Mr. Bernstein's testimony  
24 in preparation for your testimony here today?

25 MR. GOLDIN: I have looked at it, Mr. Magavern.



1 I can't say I reviewed it, I glanced at it.

2  
3 COMMISSIONER MAGAVERN: Did you find it to be  
4 substantially accurate in his account of his meeting  
5 with you?

6 MR. GOLDIN: I regarded it as rather interest-  
7 ing that there was a several year lag in the events  
8 and the indignation. The indignation, interestingly  
9 enough, occurred about four or five years after the  
10 event. The indignation coincided with Mr. Bernstein  
11 having learned, to his obvious chagrine that I  
12 took very vigorous exception, opposed very strongly  
13 the project of his on 46th Street and Sixth Avenue  
14 in the form which he proposed it.

15 I did not feel it was in the public interest.

16 COMMISSIONER MAGAVERN: Well, he testified that  
17 he received a call from you inviting him to have  
18 either breakfast or lunch with him, and you sub-  
19 sequently met at th Plaza Hotel. Prior to that  
20 invitation to him, had you known him on a personal  
21 basis?

22 MR. GOLDIN: Well, it is generally not my  
23 practice to call people who I have not met and do  
24 not know, to ask for campaign contributions. I feel  
25 comfortable doing that, asking for campaign

2 contributions only with people whom I have had  
3 some contact or to whom I have been introduced for  
4 that purpose.

5 COMMISSIONER MAGAVERN: What was your prior  
6 experience with Mr. Bernstein?

7 MR. GOLDIN: I don't recollect the specific  
8 circumstances of our contact, but I know that I  
9 have assuredly met him.

10 COMMISSIONER MAGAVERN: You didn't regard him  
11 as an old friend?

12 MR. GOLDIN: No. As you know, Mr. Bernstein  
13 was new in town. We now learn, which none of us  
14 knew at the time, he had come here as an agent of  
15 the Marcoses. I did not know it then.

16 COMMISSIONER MAGAVERN: Any contact he had  
17 with them prior to that would have been very cursory,  
18 a mere introduction, at the most?

19 MR. GOLDIN: I indicated to you that I had  
20 met him. I don't know where, how often, but I do  
21 know that I met him.

22 COMMISSIONER MAGAVERN: What reason did you  
23 have to believe that he would be interested in  
24 making a substantial contribution to your campaign?

25 MR. GOLDIN: Well, as you know, Mr. Bernstein

1 has been a significant contributor to political  
2 campaigns. I believed him to be a man of significant  
3 means, and I had met him, and I thought that he might  
4 be interested in contributing to my campaign.  
5

6 COMMISSIONER MAGAVERN: Had he had any business  
7 before the Board of Estimate prior to your contact  
8 with him, your invitation to lunch?

9 MR. GOLDIN: Not that I recollect.

10 COMMISSIONER MAGAVERN: Can you understand how  
11 a reasonable person in his position might have felt  
12 some pressure to make a contribution in order to  
13 avoid incurring the disfavor of someone who had  
14 substantial authority over projects that he might  
15 be bringing forward in the future?

16 MR. GOLDIN: No. My experience is that people  
17 who are sophisticated, people of substance, people  
18 of great means, have very little embarrassment about  
19 what it is they decide to write a check for.

20 COMMISSIONER MAGAVERN: Do you think his  
21 response, as he testified, was an irrational response?

22 MR. GOLDIN: I wouldn't call it irrational,  
23 because that is a clinical judgment, but I said  
24 to you that the indignation that he expressed here,  
25 I think, took quite a long time to develop, and I

1  
2 regarded it as not coincidental that that indignation,  
3 in my view, coincided with the great irritation  
4 of Mr. Bernstein in my opposition to his project.  
5 It was costing him many hundreds and hundreds of  
6 thousands of dollars.

7 As I told him when he called me and asked for  
8 me to support the project, if it were within my  
9 province, the project would be denied.

10 COMMISSIONER MAGAVERN: Does that indicate to  
11 you when he made that contribution, he may have  
12 expected favorable treatment from you in the future?

13 MR. GOLDIN: I don't know. You will have to  
14 ask him.

15 COMMISSIONER MAGAVERN: Is that your interpre-  
16 tation of his more recent response?

17 MR. GOLDIN: My interpretation of his more  
18 recent response is that he is disgruntled, chagrined,  
19 angry, he wanted me to approve the project. I held  
20 it up, unilaterally, for months and months.

21 I thought, as a matter of policy, that it was  
22 a grave mistake for the City to accede to the  
23 project in the form in which he proposed it. I  
24 thought it was bad public policy, and I so told him.

25 COMMISSIONER MAGAVERN: You described earlier

2 your belief that there is great cynicism on the  
3 part of the public, a feeling that government is  
4 pervaded by campaign contributions, and without  
5 suggesting criticism of anyone who plays the rules,  
6 plays the game according to the current rules,  
7 do you believe that the kind of fund raising  
8 tactics that you used with Mr. Bernstein would be  
9 a part of the problem that has to be addressed?

10 MR. GOLDIN: No, not to the extent that you  
11 are suggesting that it is isolated.

12 COMMISSIONER MAGAVERN: I don't mean isolated.

13 MR. GOLDIN: Commissioner, last Friday, the  
14 DAILY NEWS reported that the Democratic and Repub-  
15 lican presidential candidates, as we can now  
16 describe them, I think, are going to be holding  
17 major fund raisers in New York. To which the  
18 DAILY NEWS said, there have been substantial com-  
19 mitments -- I have forgotten the amount, it was  
20 \$35,000 or \$50,000 -- that have been made by  
21 prominent Americans and well-known New Yorkers.

22 You and I would have thought that the limit  
23 under the federal statute is \$1,000 in contributions.  
24 Yet, somebody picking up the DAILY NEWS would,  
25 quite accurately, gotten the impression that whatever

1 the pretense of the statute, there are people who  
2 have publicly declared that they are somehow going  
3 to be able to contribute, whether directly or  
4 indirectly, 35, I think it may be \$50,000.  
5

6 In my judgment, that dramatizes the need for  
7 public financing of campaigns.

8 Even in a federal system which doesn't permit  
9 corporate contributions, which doesn't permit  
10 contributions to be made by defense contractors,  
11 which limits it to \$1,000 a person, to me, that  
12 helps to dramatize why it is that the system I am  
13 urging is the only answer.

14 COMMISSIONER MAGAVERN: Would you include,  
15 for example, contributions by corporations associated  
16 with Mr. Gutterman, totaling about \$100,000, as a  
17 kind of a problem that has to be resolved?

18 MR. GOLDIN: No, I am not separating that out.  
19 Clearly, the law permitted that. I am saying that  
20 the law should be totally changed, and that we  
21 should take advantage of a climate which I think  
22 is now conducive to the kind of reform about which  
23 I am talking to.

24 If you have enough of us insisting on it, I  
25 believe that there is a very good chance that it

1 will be realized.

2  
3 Indeed, I have said it in other forums, other  
4 occasions, if the Legislature resist public fin-  
5 ancing of campaigns on an institutionalized basis,  
6 we should urge the Legislature to allow it on a  
7 demonstration basis, perhaps over two election  
8 cycles, say, starting in New York City. Maybe  
9 that would be more palatable to the Legislature.

10 It is on that kind of initiative that forums  
11 like this, commissions like this, thoughtful  
12 citizens, I think, can be instrumental.

13 COMMISSIONER MAGAVERN: Let me turn very  
14 briefly to the selection of underwriters and their  
15 participation in underwriting bond and note issues  
16 by the City.

17 Have you, at any time, made any request or  
18 suggestion to your staff as to how much a particular  
19 underwriter ought to participate in a particular  
20 issue?

21 MR. GOLDIN: I thought I answered that question  
22 earlier, Commissioner, when I said that the selec-  
23 tion of underwriters was handled by a senior  
24 professional member of my staff to whom my dir-  
25 ection was that the process ought to be handled

2 fairly and objectively. There was a fairly large  
3 committee designated by me and the Mayor to conduct  
4 the process, it was executed through RFP's, requests  
5 for proposal, through a process of interviews.

6 I never reviewed the RFP's, I never participat-  
7 ed in the interviews, I never evaluated the quali-  
8 fications of the individual applicants, I left that  
9 to the senior professional staff.

10 So, I think that that answers the question,  
11 Commissioner.

12 COMMISSIONER MAGAVERN: Have you ever received  
13 a request by an underwriter to intercede in that  
14 underwriter's behalf?

15 MR. GOLDIN: I have gotten many inquiries from  
16 applicants, satisfied and dissatisfied, respecting  
17 this matter.

18 As a matter of fact, one prominent example  
19 that I can think of involves three commercial banks  
20 which were disgruntled from having been precluded  
21 from the underwriting syndicate. I got many  
22 inquiries on this matter.

23 COMMISSIONER MAGAVERN: I understand your  
24 answer a moment ago to be in general terms. Gen-  
25 erally, you did not make any suggestions to your



1 staff or to others on behalf of any particular  
2 underwriter.  
3

4 Let me ask if there have ever been any  
5 exceptions to that general policy?

6 MR. GOLDIN: I cannot think of any exceptions,  
7 no. I have given general direction, as I have  
8 told you, general policy has been reviewed with me.  
9 But, the evaluation of the merits of particular  
10 applicants, has been handled by the professional  
11 staff.

12 COMMISSIONER MAGAVERN: Thank you.

13 THE CHAIRMAN: Commissioner Emery.

14 COMMISSIONER EMERY: I want to try to step  
15 back a second and look at some of the underlying  
16 motivations here and ask you, first of all, in  
17 a completely different context, not the context  
18 we are talking about here today, but the context  
19 of actual bribery, such as the PVB situation, Citi-  
20 source, where stock was promised, at least as the  
21 testimony showed, clearly, in that situation, is  
22 it not the case that the people participating in  
23 the actual bribery, those in the private business  
24 world who are bribing the public officials, their  
25 motivation is to get business through the

2 discretionary judgments of the public officials;  
3 isn't that basically correct?

4 MR. GOLDIN: Commissioner, you are dealing  
5 there with thieves.

6 COMMISSIONER EMERY: I understand that.

7 MR. GOLDIN: I don't mean to anticipate where  
8 you may be heading, but I don't think you can  
9 extrapolate from the criminal mind to a prevailing  
10 practice that involves, I believe, in the main, on  
11 his people.

12 COMMISSIONER EMERY: Now, what I am asking you  
13 is, in the situation as alleged, for instance, in  
14 Wedtech, where stock is distributed to people, the  
15 motivation that is alleged is criminal, is it not,  
16 of private business people -- excuse me -- private  
17 business people who are engaged in that kind of  
18 stealing, if you want to call it that, thievery,  
19 criminal activity, is an attempt to gain profit  
20 through obtaining business illegally through the  
21 discretionary judgments of public officials; isn't  
22 that the case?

23 MR. GOLDIN: That would appear to be true.

24 COMMISSIONER EMERY: Now, in those companies,  
25 the few examples that we have locally, there are

1 rarely campaign contributions, those companies don't  
2 make campaign contributions, they make bribes in  
3 those cases.  
4

5 Can you think of any of those companies who  
6 have been involved in criminal allegations that  
7 made substantial campaign contributions?

8 MR. GOLDIN: I think the answer is yes.

9 COMMISSIONER EMERY: If there were, it is  
10 minimum?

11 MR. GOLDIN: Minimum is in the eyes of the  
12 beholder. The answer to your question is, I think  
13 there were companies that have been implicated in  
14 bribes who also made campaign contributions.

15 COMMISSIONER EMERY: I take it it is your  
16 contention from what you said a minute ago, that  
17 in the context of making a campaign contribution,  
18 a person who is in business the City, who does  
19 business with the City, who makes campaign con-  
20 tributions to an individual public official, who  
21 has in his or her control discretionary judgments,  
22 that there is a different motivation; that's your  
23 contention a moment ago, is it not?

24 MR. GOLDIN: I'm a little confused about the  
25 line of questioning. I said to you at the outset

2 that I don't think that you can analogize a criminal  
3 activity to a chronological activity.

4 COMMISSIONER EMERY: I am only looking at the  
5 motivation now. The motivation to get business.

6 MR. GOLDIN: The motivation of a criminal is  
7 criminal.

8 COMMISSIONER EMERY: Okay. On the one hand  
9 I am asking you, is the motivation to make money?

10 MR. GOLDIN: If you are asking me in this kind  
11 of society, our civilization, is the motivation  
12 profit, an appropriate profit, my answer would be,  
13 under appropriate conditions, it is proper.

14 COMMISSIONER EMERY: That is right, that a  
15 campaign contributor, in some instances, may be  
16 purely altruistic in some instances, maybe a good  
17 government person may think of you as the best  
18 person to be Controller, Mayor, Governor, thinks  
19 you will do great for our society, and, therefore,  
20 contributes to your campaign.

21 In other instances, there are people who  
22 contribute to you, to other public officials,  
23 because they have in their minds that it is good  
24 business, it is because they are doing business  
25 with the City, they are doing business in this

society, you are good for business, you are good for them, they can make money.

Isn't that fair to say?

MR. GOLDIN: You know, Commissioner, it is precisely because there is this kind of feeling that engenders cynicism and distrust in the public mind because the public should not be called upon to make those kinds of distinctions.

COMMISSIONER EMERY: I agree.

MR. GOLDIN: Then I favor a system which removes them, and it is for that reason that I urge as strongly and as consistently as I do, that we not make them in the law, that we have public financing throughout.

COMMISSIONER EMERY: I understand.

Under the present system as it existed prior to February 29, and to some degree, it still exists, certainly State-wide, the fact of the matter is that the biggest givers are people and companies that do business in New York City with New York City, in New York State with New York State.

MR. GOLDIN: I don't think that is true.

COMMISSIONER EMERY: The biggest givers.

MR. GOLDIN: No.

2 COMMISSIONER EMERY: Well, I --

3 MR. GOLDIN: I had very, very large campaign  
4 contributors who do no business with the City, or  
5 very little, if any, with the City.

6 COMMISSIONER EMERY: You will agree with me  
7 that huge amounts of money are given by the real  
8 estate interests in New York City?

9 MR. GOLDIN: It is correct to say that large  
10 amounts of money are given to the State, are given  
11 to State candidates, people who do business with  
12 the State, City candidates, people who do business  
13 with the City and vice versa.

14 COMMISSIONER EMERY: In fact, the people who  
15 are chiefly solicited by candidates are people or  
16 -- not chiefly, let us say largely, are solicited  
17 by candidates, are people who do business over the  
18 very entities that these people have discretionary  
19 judgment for?

20 MR. GOLDIN: The principal people who are  
21 solicited by candidates are rich people who may  
22 or may not, in given instances, do business with  
23 government.

24 COMMISSIONER EMERY: The question to you is:  
25 Do you think a public official who solicits

1  
2 campaign contributions has a duty to make a judg-  
3 ment about whether the motivation of somebody  
4 giving that public official a campaign contribution,  
5 is doing it for altruistic reasons, or because they  
6 are trying to make money for self-interested  
7 reasons; do you think the campaign, do you think  
8 the candidate who is in the middle of the campaign,  
9 has a duty to make a judgment about that as a  
10 public official?

3B 11 MR. GOLDIN: Commissioner, I have a brother  
12 who is a psychiatrist, I don't practice his pro-  
13 fession, he doesn't practice mine.

14 COMMISSIONER EMERY: I am not asking youa bout  
15 psychiatry.

16 MR. GOLDIN: I think you are.

17 COMMISSIONER EMERY: I think I'm asking you  
18 about duty.

19 MR. GOLDIN: You are cloaking a question about  
20 psychiatry in the guise of duty.

21 COMMISSIONER EMERY: I am not.

22 MR. GOLDIN: You are.

23 COMMISSIONER EMERY: I am asking you --

24 MR. GOLDIN: I beg to differ with you.

25 COMMISSIONER EMERY: Would you make the same

2 judgment that a prosecutor would have to make?

3 MR. GOLDIN: I am not.

4 COMMISSIONER EMERY: I'm asking you to make  
5 a judgment that a public official has to make.

6 MR. GOLDIN: I will tell you why that is an  
7 unfair formulation. A prosecutor, if I may, a  
8 prosecutor makes that judgment not in the abstract,  
9 but on the basis of evidence, on the basis of  
10 substantial inquiry.

11 COMMISSIONER EMERY: Right.

12 MR. GOLDIN: On the basis of resources avail-  
13 able to that office which are calculated, which are  
14 designed to enable the prosecutor to reach a fully  
15 informed judgment.

16 By and large, people who run for public  
17 office, whether incumbents or not, don't have that  
18 capacity.

19 COMMISSIONER EMERY: Let me ask you this: Has  
20 there ever been a case where you, or do you know  
21 of any other candidate that has received a campaign  
22 contribution from a person who came to them and  
23 wanted to make a campaign contribution, who had  
24 never given a campaign contribution before, was  
25 doing business with the City, and was about to do



1  
2 more business with the City and needed approval  
3 either in the form of a loan --

4 MR. GOLDIN: I don't understand the question.

5 COMMISSIONER EMERY: Are there situations  
6 where people give campaign contributions where  
7 they're mainly giving it for the reasons that you  
8 stated before, because they want to make money,  
9 and they do it as good business to give campaign  
10 contributions in their pursuit of making a profit  
11 in doing business with the City?

12 MR. GOLDIN: This Commission has been in  
13 business how long?

14 COMMISSIONER EMERY: A little over a year.

15 MR. GOLDIN: Has what budget?

16 I have a reason I am asking, I am not toying  
17 with you. It has a large budget?

18 COMMISSIONER EMERY: Yes.

19 MR. GOLDIN: Large staff. Has reached out,  
20 I assume, to large numbers of people, maybe hundreds  
21 of campaign contributors. I can't think of anybody  
22 who is in a better position to answer that question  
23 than you and your staff; much better than I.

24 COMMISSIONER EMERY: Let me tell you that  
25 there are many instances which we have found where

2 people have made contributions who do business with  
3 the City, right before or right around the time  
4 that the discretionary judgments are made by the  
5 official to whom the contribution is given.

6 Let me ask you, then, do you think, under those  
7 circumstances, it is a duty or reasonable for a  
8 public official in that situation, to make a judg-  
9 ment about the motivation of the person giving the  
10 contribution, or should the person -- should the  
11 public official just cover his or her eyes and say,  
12 I don't care why they are giving it to me, I will  
13 take it no matter what, because I am in a competi-  
14 tive environment?

15 MR. GOLDIN: We are dealing in area that is  
16 appropriately governed by statute. The statute is  
17 designed to establish a system that is fair and  
18 proper, and in which there are guidelines that are  
19 known uniformly, commonly understood.

20 From time to time it develops that the statutory  
21 scheme is deficient, unclear, ambiguous, needs  
22 reform. This is such a period.

23 It seems to me that, therefore, we should  
24 take advantage of this period to reform the system.

25 I don't think we should ask each candidate to

1 establish an independent system of his or her own;  
2 that is chaotic.

3  
4 COMMISSIONER EMERY: I agree with you totally  
5 about reforming the system, but I believe the only  
6 way to reform the system is to eliminate the need  
7 for such judgments by having public financing.

8 MR. GOLDIN: Good.

9 COMMISSIONER EMERY: What I am saying to you is,  
10 under the current system, I think it makes perfect  
11 sense for a duty to be imposed upon a public official  
12 to determine whether someone giving him or her  
13 money, is doing it for reasons of profit or  
14 reasons of altruism. If they are doing it purely  
15 for reasons of profit, isn't it the same thing  
16 as bribery?

17 MR. GOLDIN: What you would have to do is  
18 ask every contributor, what is your reason for  
19 giving this contribution, is it altruism or profit.  
20 Is that what you are asking?

21 COMMISSIONER EMERY: Yes.

22 MR. GOLDIN: We can mandate that such a  
23 question be asked if you think that will be helpful.  
24 I don't want you drawing up statutes for me if that  
25 is where you are going.

Goldin

COMMISSIONER EMERY: Let me put it this way:

I think that there is reason to believe that there are many contributors who don't necessarily give for altruistic reasons, and I think that there are many public officials who know perfectly well that the reason the campaign givers are giving is not for altruistic reasons.

MR. GOLDIN: Commissioner, you are identifying -- I don't mean to quibble with you -- I don't think that this line of questioning is doing it in the way that I think will help the public understand the issue best, a fundamental weakness in the system. And that is that the public has grave doubts about the efficacy of the system. The system, therefore, is not working. It should be eliminated because we are talking about something that is so fundamental to the integrity of our entire society.

It is for that reason that I believe that the only course that makes any sense is public financing of campaigns because you are asking for distinctions to be made which, it seems to me, really cannot be made sufficiently well, sufficiently broadly, sufficiently comprehensively, sufficiently

objectively to reassure the public.

COMMISSIONER EMERY: That is why I asked this line of questioning, to bring out exactly that point about public financing.

Nevertheless, I think the word "unseemly," is the critical word you used, it is unseemly for people to give campaign contributions for self-interested reasons, it is unseemly for public officials to accept them when they know they are being given for self-interested reasons, and it is unseemly for the public, as a whole, to watch this process take place, and there is only one way to avoid it, which is to finance the whole system.

MR. GOLDIN: In the end, we come out the same place.

THE CHAIRMAN: Keven O'Brien.

MR. O'BRIEN: I want to ask you, in light of your eloquent statement about public cynicism, is it your position that in the absence of a pure public funding proposal, which none of us sees down the road, --

MR. GOLDIN: I have to interrupt you. Do not give up on it. I served for five terms in the New York State Senate, I know that if a commission

2           like this concedes that it is not achievable,  
3           it is not achievable. I know that if a commission  
4           such as this insists that it is the only answer,  
5           and that anything short of it perpetuates, in one  
6           fashion or another, the deficiencies in the present  
7           system, that is where we are going to end up.

8           In my judgment, the pretense, I put it earlier  
9           in another context, the pretense of reform, which  
10          elevates form over substance, and leaves the  
11          substance deficient, sets the public up for even  
12          greater cynicism.

13          MR. O'Brien: I don't disagree with anything  
14          you say. My question is, given what we have right  
15          now, do you really believe that your mode of  
16          soliciting contributions, one-on-one, in private  
17          forums, without any third-party witnesses at all,  
18          is the one best calculated to allay public cynicism  
19          and distrust about the process?

20          MR. GOLDIN: The inference in that formulation  
21          is unfair and inaccurate. By and large, the  
22          meetings that I hold are in public, they are in  
23          public places, they are not in camera, they are  
24          not in some secret location, there is no attempt  
25          to hide.

1 So, these are open conversations, held openly.  
2  
3 I don't know who is eavesdropping at the next table.

4 I am saying to you that the Commission, itself,  
5 recognized that there is a distinction without very  
6 much of a difference in trying to establish a  
7 dichotomy between the solicitation that is made  
8 directly, and the conversation that is direct and  
9 one in which the candidate, in effect, makes the  
10 pitch and then leaves the room while the hat is  
11 passed.

12 I don't know why one is preferable to another.

13 MR. O'BRIEN: You would agree that there is  
14 a whole range of alternatives using intermediaries  
15 on the one hand, private breakfast meetings on the  
16 other; there are cocktail parties, public forums  
17 where you can present your views directly?

18 MR. GOLDIN: What is better than those?

19 MR. O'BRIEN: We are talking again not about  
20 the reality, but to use your term, we are talking  
21 about the appearance.

22 MR. GOLDIN: Let us talk about a word we  
23 haven't used this afternoon in my testimony. We  
24 are talking about perception.

25 Tell me why it is better for a candidate to

2 go to the boardroom of a law firm, or to go on the  
3 yacht of a major real estate developer, or to go  
4 to the apartment of somebody in the banking business,  
5 and to have large numbers of people invited, have  
6 the candidate come with all of those who are  
7 present, knowing exactly why the candidate is there,  
8 having the host or whomever is designated, say to  
9 the candidate, now your part is done, we will let  
10 you know how it comes out, and leaves; why is that  
11 preferable?

12 MR. O'BRIEN: Let me turn it around a little  
13 bit. Do you think Mr. Bernstein, to use your  
14 example, a disgruntled individual, to use your  
15 characterization, would be able to make the claims  
16 that he did against you at our March hearing if  
17 the fund raising at issue had taken place in any  
18 of those contexts that you just described?

19 MR. GOLDIN: Mr. O'Brien, I don't think that  
20 you can create a system that is calculated to deal  
21 with each and every instance. It is precisely --  
22 I don't want to come back to it over and over again  
23 and say that I invoke it because it is relevant  
24 in all these contexts, it is precisely because all  
25 kinds of ambiguities and questions can arise that



1  
2 I have urged on this Commission, that it be of  
3 stout heart, that it insist on public financing  
4 of campaigns.

5 I think the Commission was quite right in its  
6 own report that I read to you, and you are familiar,  
7 on an interim basis, in recognizing the problem  
8 which you set up one as preferable to the other.

9 MR. O'BRIEN: Thank you.

10 THE CHAIRMAN: One final question, Ms. Cushman.

11 MS. CUSHMAN: The question that I have is  
12 whether it is really responsible or prudent to  
13 postpone beginning to -- say, for this very substantial  
14 expenditure which the City will have in 1989, to  
15 postpone it to the year in which that money due  
16 to be spent.

17 Isn't it something like saving for your  
18 children's college education -- now it is coming  
19 and if you really believe you are going to spend  
20 the money, and you are really putting the money  
21 where your aspirations presumably are, you should  
22 be setting aside for it now; isn't that the most  
23 prudent way to go?

24 MR. GOLDIN: This City doesn't have a piggy  
25 bank. As expenditures arise, we budget for those

1 expenditures. It is ludicrous to compare the City  
2 to a Hanukah or Christmas Club in which it sets  
3 little pennies aside week by week in anticipation  
4 of expense, especially an expense on that order  
5 of magnitude. \$28 million is a lot of money, to  
6 be sure. In a City with a \$25.5 billion budget,  
7 it is a figure that we can afford.  
8

9 When it has to be paid, the City can approp-  
10 riate it.

11 It makes no sense, a year in advance, for the  
12 City to take the money and set it aside and not  
13 let it be used for critical public purposes for  
14 which we are desperate, when we have full capacity  
15 next spring or before the money will have to be  
16 spent, to appropriate it fully to the extent needed  
17 in the budget for the year starting July, 1989.

18 MS. CUSHMAN: You are confident the money will  
19 be available next year, and that it will be more  
20 appropriately spent on this than on any of those  
21 other urgent needs next year?

22 MR. GOLDIN: It will be appropriate to spend  
23 it next year, because that is when the money will  
24 be required.

25 This year it will simply be sitting in a corner

2 somewhere, unavailable for other critical purposes.  
3 That makes no sense.

4 MS. CUSHMAN: Sort of like a "war chest."

5 MR. GOLDIN: No. The difference is that the  
6 -- what you characterize as a "war chest," left  
7 over contributions from prior campaigns, were  
8 collected in anticipation of the possibility that  
9 they might be needed in that prior campaign because  
10 there was no way of knowing whether they would be  
11 needed or not needed.

12 In the end, it developed that they were not  
13 needed in that campaign.

14 Rather than foolishly shoveling that money out,  
15 the sensible and prudent course is to retain it  
16 for when it is needed.

17 That is very different from a situation in  
18 which the City takes \$28 million that it desperately  
19 needs for other purposes and sets it aside when  
20 it knows full well that when that money is required,  
21 in another year's budget, it will appropriate that  
22 money and spend it. The two situations are wholly  
23 unanalogous.

24 MS. CUSHMAN: Thank you.

25 THE CHAIRMAN: Thank you for your participation

2 in this hearing.

3 We will declare a short recess.

4 (A recess was taken.)

5 THE CHAIRMAN: Let us have a seat.

6 Mr. Rubenstein, will you raise your right  
7 hand?

8 H O W A R D R U B E N S T E I N, called as  
9 a witness, having been sworn by the Chairman,  
10 testified as follows:

11 THE CHAIRMAN: Please be seated.

12 I would like to thank you for your participa-  
13 tion in our hearing.

14 MR. RUBENSTEIN: Thank you.

15 I think you are doing a very significant job,  
16 and my voluntary participation, I hope, will help  
17 you to reform the necessary laws on campaign  
18 financing. I will do my best for you.

19 THE CHAIRMAN: Thank you.

20 Ms. Cushman.

21 MS. CUSHMAN: Good afternoon. We are running  
22 a little bit late and rather than going into great  
23 detail about your background -- I know you have  
24 been waiting beyond your scheduled time -- so  
25 I'm going to try to move quickly past your areas

2 of background and assume a general familiarity  
3 with your background by the people in the room  
4 today.

5 Describe the nature of your current business,  
6 please.

7 MR. RUBENSTEIN: I am President of Howard  
8 Rubenstein Associates, a public relations company  
9 in Manhattan. We have approximately 115 employees  
10 and represent, probably, over 300 clients.

11 I have been in business for thirty-four years,  
12 starting as a one-man Brooklyn based operation with  
13 my first account paying me \$100 a month.

14 MS. CUSHMAN: And does your firm also get  
15 involved in lobbying, as well as public relations?

16 MR. RUBENSTEIN: Our firm is a registered  
17 lobbyist in New York City and State.

18 MS. CUSHMAN: As between lobbying and your  
19 public relations activities, which is the dominant  
20 and by roughly what proportion?

21 MR. RUBENSTEIN: The public relations component  
22 is, by far, the largest, and accounts for about  
23 ninety-four -- ninety some-odd percent of my total  
24 business.

25 MS. CUSHMAN: And in the course of your

2 became Mayor, he would call me frequently, and I  
3 was one of his non-paid advisors for those four  
4 years.

5 MS. CUSHMAN: After that time, were you  
6 involved in any way with contacts with government  
7 or advising governmental officials?

8 MR. RUBENSTEIN: Far less in depth than the  
9 Abe Beame administration. All through those prior  
10 years, I had known many of the public officials.  
11 I had known Mayor Koch since the '70's, Mario Cuomo,  
12 for many years. Many of the public officials who  
13 now hold office.

14 I went back for many years. From time to time  
15 they would call me and just chat with me about  
16 public relations issues.

17 MS. CUSHMAN: So, your contacts in the world  
18 of government and public life are quite extensive,  
19 is that correct?

20 MR. RUBENSTEIN: I have extensive knowledge  
21 of governments, I believe. I am interested in  
22 New York, it is the only place I have an office.  
23 Most of the other public relations firms have  
24 offices all over. This is my home, I owe it a  
25 great deal, and I am interested in government and

1  
2 politics.

3 MS. CUSHMAN: Let us talk for a little bit  
4 about the business of lobbying, and I would like  
5 to start, if you will permit me, with asking you  
6 to discuss what lobbying activities are, not in  
7 the sense of legal definitions, of registration,  
8 et cetera, but what, in a common sense way, what  
9 lobbying activities consist of.

10 MR. RUBENSTEIN: In simple form, I believe  
11 any attempt by an individual or a lobbyist to  
12 influence the actions of a board of estimate, or  
13 city council or any of the agencies. I look at  
14 that broad definition as wide-ranging. I look at  
15 it in a broader way than most, I think.

16 Any appearance, any discussion, calling upon  
17 them to do things that require legislation or a  
18 hearing, or a judgment on rates, anything like that,  
19 would constitute lobbying, to me.

20 MS. CUSHMAN: Does this include contacts with  
21 government officials within city agencies who  
22 make discretionary decisions?

23 MR. RUBENSTEIN: Yes, I certainly would include  
24 that, and community planning boards, as well.

25 MS. CUSHMAN: Now, there came a time when

1  
2 New York City passed a form of lobbying disclosure  
3 law and then somewhat more recently, developed a  
4 broader and more comprehensive lobbying disclosure  
5 law.

6 Can you describe, briefly, your understanding  
7 of what the requirements of that law are?

8 MR. RUBENSTEIN: Of the new one?

9 MS. CUSHMAN: Of the new one.

10 MR. RUBENSTEIN: The new disclosure?

11 MS. CUSHMAN: Yes.

12 MR. RUBENSTEIN: The new disclosure went  
13 further than the original law which I found to be  
14 somewhat sketchy. The new law now requires virtually  
15 everybody to register. Under the old law, if I  
16 am correct, many of the lawyers did not consider  
17 themselves covered under the law. Under the present  
18 law, I believe they are.

19 So, I think it includes more representation  
20 now than in the past.

21 Now, the law requires, currently requires  
22 quarterly filing and annual filing, and it requires  
23 you to list, at the beginning, who you anticipate  
24 lobbying. Not necessarily that you might do that,  
25 but who you anticipate lobbying before, what are



2 the subjects, in a generalized way, if you know it.

3 Very often you might not know what you might  
4 be called to lobby on. And in the quarterly  
5 reports they require who you saw and the general  
6 subject matter, who you spoke to. Not only saw  
7 directly, but who you spoke to, and the general  
8 subject matter that was covered.

9 On the annual, they require the names of the  
10 people working for you, or the company, in my case,  
11 who can be anticipated to lobby.

12 In each quarter, you have to list the person  
13 or persons that actually participated in the lobby-  
14 ing.

15 MS. CUSHMAN: Now, talking about this new law,  
16 have you discussed the provisions of this new law  
17 with other people who are in the lobbying business?

18 MR. RUBENSTEIN: Yes, I have.

19 MS. CUSHMAN: And is there a general consensus  
20 that the lobbying law covers all the different  
21 kinds of activities that you have described in  
22 a common sense way lobbying consists of, or is there  
23 some ambiguity in the law?

24 MR. RUBENSTEIN: Some of the lawyers with  
25 whom I have talked about it feel, or felt that

1 because of lawyer-client relationships, they might  
2 not have to -- they shouldn't have to register,  
3 and some did under protest.  
4

5 Some balked at the registration, but all of  
6 them that I know did it. Some expressed their  
7 reservations about it. Generally, however, I  
8 they're in favor of the lobbying law.

9 MS. CUSHMAN: What about architects or other  
10 professionals who might be involved in the land use,  
11 or the planning process, or who might have occasion  
12 to have contact with City agencies in that con-  
13 nection?

14 MR. RUBENSTEIN: In my opinion, anyone who  
15 appears before government as an advocate for a  
16 position requiring those kinds of actions, should  
17 be required to register.

18 I think lobbying should be conducted under  
19 complete sunshine, I see no reason to exclude  
20 people because of their professional status that  
21 might be different from lawyer or public relations  
22 person or something else.

3C 23 It might be complicated, but if they -- if  
24 they, for example, simply draw plans, and never  
25 appeared, I would think probably they should not

1  
2 be required to register.

3 If they go and make a presentation to an  
4 agency, attend, and they are an advocate, they are  
5 doing the same thing that a public relations is  
6 with a different skill involved, the same thing  
7 as a lawyer with a different skill.

8 I would urge all of them to register.

9 MS. CUSHMAN: Is this for disclosure, the  
10 philosophy which you endeavor to implement in your  
11 own business?

12 MR. RUBENSTEIN: Well, I certainly do. A  
13 condition of employment in my office is that any  
14 person who comes to work for me, and I have about  
15 sixty account executives, sixty, they have to  
16 sign a letter of understanding, spelling out the  
17 terms of their employment.

18 One of the terms that they have to sign is  
19 that they have read the lobbying law, and they  
20 will adhere to it.

21 If they don't sign that, they don't receive  
22 employment at my office.

23 Then the way we comply -- I guess that is  
24 what you are asking about?

25 MS. CUSHMAN: I would like to ask you this:

1 I understand that you have set up some kind of  
2 a compliance program, some kind of system to try  
3 to insure that all of these different individuals  
4 connected with your office, and who might be lobby-  
5 ing, do, in fact, comply with the law?  
6

7 MR. RUBENSTEIN: Yes.

8 MS. CUSHMAN: Can you describe that to us?

9 MR. RUBENSTEIN: It is a difficult process if  
10 you have as many employees as we have. What we  
11 did was, I designated a compliance officer, one  
12 person in charge of that, that is, a professional  
13 public relations person. Each person receives a  
14 copy of the law, the laws, the City and State  
15 lobbying laws, when they join my office. We have  
16 a book that they get.

17 They meet individually with my compliance  
18 officer who explains the law in layman's language.  
19 Then they receive a form that they keep at their  
20 desk and then they fill it in, and then they turn  
21 it over at the end of each quarter to the compliance  
22 officer to transfers the information to our lobby-  
23 ing forms.

24 During the quarterly period, and at the end,  
25 the compliance officer meets and advises those

2

people to be on the lookout for anything that

3

can constitute lobbying.

4

So, I think we make a major effort.

5

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(Continued on next page.)

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2 MS. CUSHMAN: Do you find this effort  
3 particularly burdensome?

4 MR. RUBENSTEIN: It's very time consuming, but  
5 in view of the desired result of complete dis-  
6 closure, I'm an advocate of that, and I try not  
7 to -- and I try to encourage that rather than  
8 discourage it. I think it's appropriate.

9 MS. CUSHMAN: Within the context of a law  
10 firm, the clients who have conflicting interests  
11 or who are on two sides of a particular issue are  
12 sometimes screened from each other or perhaps not  
13 even represented by the same law firm. Do you  
14 have any mechanisms in your office that are  
15 designed to prevent conflicts of interest, or do  
16 you function differently?

17 MR. RUBENSTEIN: Well, I will not lobby two  
18 sides of any issue at the same time, you know.  
19 I would think that that is not only unethical  
20 but illegal, at least I treat it that way.

21 So, in a number of these instances when  
22 clients are competing for different things I  
23 step back entirely from the lobbying issue and  
24 say, basically, you're on your own and do you own  
25 lobbying or your lawyers will do your lobbying.

1  
2 I think that's important, and I try to keep my  
3 eye on that very carefully.

4 MS. CUSHMAN: When you have a client for  
5 whom you are performing, simultaneously, public  
6 relations services and also sometimes -- or per-  
7 haps in the future will perform lobbying services,  
8 how do you deal with that in your retainer agree-  
9 ment and your registration statement?

10 MR. RUBENSTEIN: At the beginning of the relation-  
11 ship with my clients, if the issue of lobbying --  
12 even though they may not call it lobbying -- some  
13 don't really realize what they are talking about  
14 is lobbying, and in most instances I'll meet the  
15 client.

16 In some instances, some of my staff will  
17 meet the client and I won't. But they are experi-  
18 enced people too. If the issue of lobbying in any  
19 form comes up, we persue that discussion and then  
20 we tell them right at the beginning, if there is a  
21 chance for lobbying, not necessarily now, but any  
22 time during that year, if there's a chance for  
23 lobbying, we will register, we will tell them we  
24 think it's quite appropriate, we show them the  
25 law, usually, or tell them about the law, and we

1  
2 allocate a portion of the overall fee towards  
3 lobbying, and then we sign a letter of agreement  
4 with them or they sign it with us, I register  
5 that with the City, as is required, and then we  
6 might go a year and not actually lobby, and yet  
7 I'm registered as a precaution.

8 I don't know if others do that, but I find  
9 that if lobbying is contemplated, that's sufficient,  
10 for me to register.

11 MS. CUSHMAN: When we were reviewing your  
12 registration forms, we noticed that for each of  
13 your different clients, the fees tended to be  
14 reflected in round numbers, sometimes \$1,000 a  
15 month, sometimes \$2,000 a month, sometimes \$3,000  
16 a month.

17 MR. RUBENSTEIN: Right.

18 MS. CUSHMAN: Does that reflect a direct  
19 correlation between the amount of time you might  
20 spend lobbying for a particular client, or is it  
21 simply a rough multiple, if you anticipate serious  
22 lobbying you're going to charge more, or if you're  
23 doing it as a precautionary measure, you're going  
24 to allocate less?

25 MR. RUBENSTEIN: We don't work on an hourly basis,



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Rubenstein

as most law firms do. I would say virtually all of our fees, because I don't remember any hourly fees, are on a monthly retainer, and I try to estimate the effort that might go into the lobbying and then allocate a portion of that fee accordingly.

So, it would be an allocation and an estimate, only.

MS. CUSHMAN: I would like to turn to another subject for a minute, which is fundraising for political campaigns, and we've noticed and, of course, it has been observed in testimony before us, that you have participated somewhat actively in fundraising for different public officials in their campaigns for elective office.

Talking first about the Mayor, could you please describe your activities in connection with his fundraising efforts and how you got into them?

MR. RUBENSTEIN: Yes. First, as I mentioned, I know the Mayor for quite a while, and I have a great deal of respect for him, and even though I've opposed him in the Abe Beame campaign, I was on the other side, I felt that he would be good for the City.

1  
2           So, my motivation in participating in his  
3 fundraising was that he would be a good Mayor  
4 for New York and, in fact, he helped bring back  
5 the City from a terrible fiscal disaster.

6           I was involved in that disaster, not the  
7 cause, but a participant, and I welcomed some-  
8 body that could protect New York so effectively  
9 and bring it back from a terrible image.

10           Now, in direct answer to your question,  
11 generally what would happen is, you would get a  
12 call from somebody in their fundraising apparatus,  
13 the Event Associate --

14           MS. CUSHMAN: When you say you would, I take  
15 it you would, yourself.

16           MR. RUBENSTEIN: Either me or my secretary. It  
17 didn't necessarily have to be me -- inviting me to  
18 a luncheon or a breakfast or some limited function,  
19 limited in terms of numbers of invited, usually a  
20 breakfast.

21           I remember going to several of them. First  
22 there was coffee and a lot of schmoozing, and then  
23 a formal -- and then breakfast. They would then  
24 make a presentation. I think it was Larry Mandliker  
25 who made one or two that I remember, but whoever

Rubenstein

headed the Finance Committee would make a presentation, and David Garth, who has been his excellent public relations advisor, would talk about how expense campaigns are, how much television costs and how great the Mayor is, and did a very good and effective job, and then the Mayor would talk.

I may be out of order somewhat, but, roughly, this is it. And then, the Mayor would speak and he would tell about his vision for New York, and he was one terrific speaker. And then somebody, perhaps the Chairman of the Fundraising Campaign, would get up and ask us if we would -- we being forty, fifty, sixty people in the room -- would agree to serve on his Fundraising Committee, Finance Fundraising Committee.

They would give us a package of material and a card or a form to sign giving them permission to use our name.

MS.CUSHMAN: And a list of who is on the Dinner Committee?

MR. RUBENSTEIN: And a mimeographed list of who else was on the Committee, and I signed those consent forms, and that was the beginning of his fundraising

1  
2 campaigns.

3 MS. CUSHMAN: What did you then do with the  
4 package of materials that were provided to you?  
5 By that, I specifically am referring to the in-  
6 vitations and the requests for purchases of seats  
7 at the dinners.

8 MR. RUBENSTEIN: Right. I would give some to  
9 some of my staff and say, if you think that any  
10 of our clients might be interested, why don't  
11 you give them to them, and I gave them to clients  
12 that I was working with or am working with. I  
13 gave them to some friends. And, that's what we  
14 did.

15 MS. CUSHMAN: Did you have any practice, or  
16 was there any common occurrence with respect to  
17 how these invitations or the checks with the  
18 responses to the invitations would be returned  
19 to the Campaign Committee?

20 MR. RUBENSTEIN: It was somewhat haphazard. My  
21 office would put my business card on it or a note  
22 on it, "Hope you could attend," or, "Perhaps you  
23 want to attend", and then give them out. Some of  
24 our clients would send them back to me, back to my  
25 office. Some would send them directly in to

1  
2 Event Associates, I believe. There was a mixture.

3 MS. CUSHMAN: What would account for someone  
4 or any number of clients returning the invitations  
5 and the checks to yourself?

6 MR. RUBENSTEIN: Well, the dinners that we were  
7 sending those invitations out for are big celebrity  
8 affairs. They had a ringside -- ringside tables,  
9 I think they called them, and those were pretty  
10 expensive.

11 MS. CUSHMAN: Sounds like a fight.

12 MR. RUBENSTEIN: No. I know my clients really  
13 liked the celebrity attitude or feeling of that.  
14 It's like when you go to a Broadway theater, you  
15 like to sit in the first few rows center. They  
16 really enjoyed sitting at good ringside seats.  
17 There were bad ringside seats and there were good  
18 ringside seats.

19 So, some of them would send their cards back,  
20 their reservation cards back to me and say, look,  
21 get us a good seat, put us in a nice place.

22 So that was one of the motivations, I think,  
23 for sending them back to me.

24 MS. CUSHMAN: Was it a surprise for them then  
25 to be associated with you at that event or any other

Rubenstein

event?

MR. RUBENSTEIN: These are friends and clients of mine. I've had some of my clients for thirty years and I've had some of my clients for twenty years, fifteen years. They are people that know me well and I know them well. It was a very relaxed invitation where they could or could not participate.

MS. CUSHMAN: Many of these people who have been your clients or who are your clients are also people who have a substantial amount of business with the City, and, indeed, among them are some of the people on whose behalf you've lobbied with the City; isn't that right?

MR. RUBENSTEIN: Yes, some of those who got the invitation have substantial business.

MS. CUSHMAN: Did you have any policy in your former years about sending these kind of invitations only to people who did not do business with the City or selecting people who did do business with the City?

MR. RUBENSTEIN: I had no policy at all. I tried to think of people who might like to go to those dinners.

4-10

Rubenstein

MS. CUSHMAN: And in some cases, it certainly was those who had business with the City; isn't that right?

MR. RUBENSTEIN: Yes, in some cases, that's true.

MS. CUSHMAN: Aside from your role as a solicitor of people to go to the annual dinner or the big dinners, did you have any other role in fundraising for the Mayor?

MR. RUBENSTEIN: For the Mayor?

MS. CUSHMAN: Yes.

MR. RUBENSTEIN: Yes, to the best of my recollection, I -- my wife and I had a cocktail party at our home, I don't recall the year, but we had a cocktail party at my home, and I invited thirty or so guests of the same quality or character that I described before, friends and business clients to my home for cocktails and, certainly, there were contributions that were made to the Mayor's Campaign Committee.

MS. CUSHMAN: Are there other public officials whose campaigns you've also supported in one way or another and actually raised funds for?

MR. RUBENSTEIN: I've raised some funds for David Dinkins and David and I have been friends for -- since 1973, and I'm a very strong advocate of him and

Rubenstein

his candidacy. If not for the position I'm now taking, I would love to raise more money for him, but that won't be.

At any rate, David Dinkins is one -- I'm having trouble identifying which ones, but -- Tom Cuite was another, one of my early clients.

You would have to ask a question specifically for me to go beyond that.

MS. CUSHMAN: But you do recall being a sort of -- I don't want to choose a loaded word -- but a go-between --

MR. RUBENSTEIN: I'll deny it. Say it again. I didn't hear you.

MS. CUSHMAN: A person in between with respect to fundraising for one or for a variety of public officials?

MR. RUBENSTEIN: I don't accept that as a description of my role. What I've done is, that people who I really like as candidates and I really like to see in public office, I would say, perhaps you may use my name on your committee, as I do for many charities. I've run more things for charities than I do for anything else. I would let them use my name. I would contribute to them. I've contributed funds over the



1 years. But I really don't look at myself as the  
2 man in the middle. I don't accept that.

3 MS. CUSHMAN: Have clients, from time to time,  
4 asked your advice as to whether they should con-  
5 tribute generally or to a particular candidate?  
6

7 MR. RUBENSTEIN: Clients from time to time cer-  
8 tainly have asked me my opinion.

9 MS. CUSHMAN: And what have you told them?

10 MR. RUBENSTEIN: What I thought they were seeking  
11 is my evaluation of the candidate's strengths and  
12 value to New York, and they know that I've had a  
13 lot of experience, as I described, so I think they  
14 feel that I can give them a good opinion, and I do.

15 MS. CUSHMAN: What about the notion of whether  
16 or not it would be helpful to the clients to make  
17 political contributions generally, as a practice?

18 MR. RUBENSTEIN: I don't know if they pose the  
19 question that way, but my opinion is that there  
20 are some candidates who are excellent for New York.  
21 Take David Dinkins, for example. If someone would  
22 say, "Is it good to give to David Dinkins?", I  
23 thought it was essentially that we have a black,  
24 bright, competent person on the Board of Estimate,  
25 and that question was asked of me a number of times.

4-13

Rubenstein

1  
2 That's a person I would give an unqualified posi-  
3 tion to.

4 There are others that I would do the same  
5 for, so my evaluation is based on, "Is it good  
6 for our City?"

7 MS. CUSHMAN: I think that the notion that  
8 I'm trying to get at is, rather, is it viewed by  
9 your business clients, or did they suggest to you  
10 that their request for advice along this line --  
11 that they were asking for advice about whether it  
12 would be helpful to their achieving their objec-  
13 tives for which they had hired you as a lobbyist  
14 if they were to give political contributions?

15 MR. RUBENSTEIN: To the best of my recollection,  
16 the relationship of lobbying and fundraising in  
17 my business and in my professional career does not  
18 exist. I did not nor do I look at fundraising  
19 and lobbying as inter-related.

20 MS. CUSHMAN: Now, we have been talking about  
21 your fundraising activity pretty much in the past  
22 sense, and there is a reason for that which is  
23 reflected in Exhibit 21 which we -- it is located  
24 in the black book.

25 MR. RUBENSTEIN: I have a copy.

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Rubenstein

MS. CUSHMAN: We have it as a magnified exhibit.

MR. RUBENSTEIN: It is like my xerox machine.

MS. CUSHMAN: This is a letter which is dated April 7th, 1988 to Mr. Lawrence Kirwan, who is the Chairman of the New York State Democratic Committee, and it is signed by yourself. It is a response, is it not, to a request that you serve on the Dinner Committee for the State Democratic Party in a fund-raising event for them?

MR. RUBENSTEIN: That is correct.

MS. CUSHMAN: Can you -- in this letter you describe your own personal decision to refrain in the future from fundraising activities on behalf of any candidate or entity supporting any candidates, and you go on to say that you have decided to support legislation that would bar lobbyists from raising funds for any officials or legislative bodies for whom they may appear.

MR. RUBENSTEIN: Yes.

MS. CUSHMAN: Can you tell us what the background was to your decision to refrain from this kind of fundraising?

MR. RUBENSTEIN: Two, two and a half years

1  
2 ago Fran Leitner called me and asked me to serve  
3 on his committee that would establish limits or  
4 caps on campaign contributions. I agreed, and  
5 I called some of the other people that he had  
6 mentioned, and a few of them agreed to serve on  
7 that committee. That was the genesis of my serious  
8 consideration of the subject matter.

9 MS. CUSHMAN: How did you --

10 MR. RUBENSTEIN: I called some lobbyists.  
11 Then it was at rest in my mind, I really did not  
12 pay much attention to it.

13 Recently, this letter came to me March 29,  
14 I had been following the media very carefully,  
15 I had been listening to the public opinion that  
16 I had been hearing or seeking out, I had been  
17 talking to people, a lot of people, about the  
18 subject matter, and I came to a conclusion that  
19 this appearance, not the substantive fact, but the  
20 appearance of a lobbyist raising money, substantial  
21 or otherwise, for people before whom they appear,  
22 was not appropriate.

23 I found that it was the appearance or the  
24 image that was created. I am a person who deals  
25 with images, it was perhaps unfair, it was unwarranted,

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(16)

Rubenstein

perhaps overdone, but it was there, that appearance that perhaps the lobbyist was gaining an undue advantage, or a position that was perhaps not in the public interest. That was the perception.

The way I have been functioning in my business is I didn't believe that. I don't believe that that is what I received, an undue, or an unfair advantage, simply because I have had such a fine relationship with people in government for so many years. It was irrelevant to me, almost. And I didn't focus on it.

Recently I focused on it, and I think that it will be important for you, and whether you do it or not I have taken my stand, that a lobbyist, and my company -- not my company, but me as a lobbyist, I will not raise money for any public official before I may appear, nor will I raise money for the Democratic Party as they requested.

Now, that was a hard decision in a way, because they were honoring my very, very good friend, the former speaker, Stanley Steingut.

One of his sons called me and said, can I help on the dinner. I said, I hate to tell you this, but

5-5  
(17)

Rubenstein

I have made my decision, and I am not.

So, from a personal standpoint it was painful. From my decision-making it was irrevocable. That is where I stand on fundraising.

MS. CUSHMAN: Have you discussed this with other lobbyists, other people in this business?

MR. RUBENSTEIN: Yes, I have.

MS. CUSHMAN: And do they concur with your conclusion in this regard?

MR. RUBENSTEIN: It varies.

Some have told me they can back it, some said they wouldn't resist it, some gave me no answer. But, my guess is that if you got a public information effort you can get A, either voluntary compliance; or B, a law passed, because while the lobbying law encourages lobbying, that is in the preface of the State Law anyway, and while it calls for complete disclosure, what it doesn't say is you really have to try to keep the competence of the public and government in the process.

I think strengthening this image this way is good for the process. I think these public officials suffer by having lobbyists raise money

1  
2 for them. They might not agree with me, but that  
3 is my point of view.

4 MS. CUSHMAN: What about the employees in  
5 your firm, the account executives who have deal-  
6 ings both with government agencies and also with  
7 your clients?

8 MR. RUBENSTEIN: That will apply to them as  
9 well.

10 The reason I cut the distinction before is I  
11 remembered in your other testimony Howard Rubenstein  
12 and Associates is a fundraising entity. It is not.  
13 So, I didn't want to leave the impression of that.  
14 But no employee of mine will be permitted to raise  
15 money as I have just said.

16 MS. CUSHMAN: Does that include raising money  
17 by soliciting people who are simply friends and  
18 associates and contacts, independent of the work  
19 environment?

20 MR. RUBENSTEIN: It includes soliciting every-  
21 one. We have so many clients who have nothing to  
22 do with lobbying, yet they're participants in  
23 government. Yo saw that, they're participants in  
24 government in that they really are interested in  
25 New York.

Rubenstein

I don't intend going to them, I don't intend going to anybody as a solicitor or an investor of funds for any public official before I might appear.

MS. CUSHMAN: Have you informed other people in public life, aside from Mr. Kirwan, of your decision in this regard?

MR. RUBENSTEIN: Yes.

MS. CUSHMAN: What has been the response?

MR. RUBENSTEIN: They say they understand it. I am getting a good response.

When you ask them to step back and look at the ethics, the appearance of the ethics involved, I don't know how you could probably say that I am wrong. It just makes common sense.

The unfortunate part, as far as I am concerned, is I didn't think about doing it earlier because maybe I would have had a greater impact.

MS. CUSHMAN: Mr. Chairman, I have no further questions.

THE CHAIRMAN: I have no further questions. Commissioner Emery.

COMMISSIONER EMERY: I want to commend you on your position. I think it has been admirable, it



1 involves a great deal of self-sacrifice, but I  
2 think it is self-sacrifice that is consistent  
3 with your high standards. I quite frankly am  
4 very happy that you are going out and doing a  
5 little proselytizing in this area. I think  
6 ultimately a mores, or a voluntary compliance,  
7 is going to be much more effective than anything  
8 we can do.  
9

10 I think there is some substantial problems  
11 that we are going to have to wrestle with in  
12 making recommendations. I think we might be  
13 able to do that, I hope we will be able to do it,  
14 it is something for us to discuss.

15 I think the voluntary compliance is very  
16 important.

17 MR. RUBENSTEIN: What I will volunteer to  
18 do today, and I won't have to register because  
19 you are a government agency, is try to help you  
20 at least on that portion of your effort on financ-  
21 ing, campaign financing.

22 What I think you can do on your entire pro-  
23 gram is gain the adherence and support of third  
24 parties, and they don't have to be the so-called  
25 reformers who are always up front on those campaigns.

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(21)

Rubenstein

1  
2 There are many groups, many of which we represent,  
3 that if the thing were presented to them, and I  
4 don't mean lobbyists raising money, just the basic  
5 issues of public funding, caps, however you come  
6 up with it, if you made those presentations in a  
7 non-confrontational way to the leadership of New  
8 York, you will get their backing.

9 If I can be of help to you, we will have lots  
10 of clients that I will be glad to talk about that,  
11 and I will.

12 THE CHAIRMAN: Commissioner Magavern.

13 COMMISSIONER MAGAVERN: This question is not  
14 directed at any of your activities past or present,  
15 but we have heard a lot today about the problem  
16 being one of perception by the public, the links  
17 between fundraising and government are unwholesome.

18 My question is: Without reference to any  
19 specific case, certainly not with reference to  
20 any of your own activities, do you feel that there  
21 is a risk that when you have those things that that  
22 perception may be justified, the public might be  
23 right that there may be at times an undue influence,  
24 maybe even a suitable influence at times in some  
25 cases?

5-10  
(22)

Rubenstein

MR. RUBENSTEIN: I really don't know because I know how I function, and the perception sometimes is as important as that reality. Then what happens is you read cases like you mentioned Wedtech, Attorney General Meese, all these other things.

After a while the public jumbles it into one messy situation, and you can't distinguish it.

I really can't distinguish it. Anything is possible in the political environment as you see it unfolding in the last two and a half years. Things have unfolded that you probably couldn't have predicted.

What you really have to do, I think, is proselytize, and then get a law that is at least reasonable and can work because somewhere along the lines somebody will think what you said, somebody will think that.

COMMISSIONER MAGAVERN: My point is, if we saw the problem only as one that the public is somehow misinformed, I suppose someone might think well, what you ought to do is educate the public, nothing is ever wrong. Yet, I think we may all sense that is not an adequate answer, that we have to establish safeguards so that something, in fact,

5-11  
(23)

Rubenstein

will not go wrong.

MR. RUBENSTEIN: I agree with you. Just the thinking that the public perception is wrong, and you have to credit the public with a lot, you can't say that that perception is wrong, it is a perception, and it is part of our democratic process of perceiving things.

I think you need a strong law. I am really in favor of the public financing, and if you don't do that, I am in favor of eliminating the corporate contributions entirely, cut them out. Just cut them out. Put a cap if you can't do total financing, put a cap on what everyone can give. I have imposed my own cap. You saw my contributions.

For a few years now, I have had a small cap on my own contributions. That is my opinion.

THE CHAIRMAN: Peter Bienstock.

MR. BIENSTOCK: Mr. Rubenstein, I'm interested in what you said about the combining of your work, of the public relations functions and the lobbying functions.

I take it that there are public relations firms in this town who also do lobbying work and that they are hired for the full package, if you will; is that

Rubenstein

true?

MR. RUBENSTEIN: I'm sure that's true.

MR. BIENSTOCK: Now, take a process which involves elaborate governmental approvals, take a process, just for argument sake, the ULURP process; have you been involved in that process?

MR. RUBENSTEIN: Yes, peripherally, though. I've observed it quite extensively.

MR. BIENSTOCK: Are there firms that are retained that do both public relations and lobbying through that process?

MR. RUBENSTEIN: The Community Board work, and so forth. I'm sure there are.

MR. BIENSTOCK: My question really is: Isn't it a package, whether from the public relations end of it or the lobbying end of it, to have the client show up at the fundraisers for the local officials, whether it be a member of the Board of Estimate, City Council, some kind of assemblyperson, so that from the public relations point of view, the image of the client is one of being in the community, isn't it part of the package to show up at fundraisers?

MR. RUBENSTEIN: I can't accept that that's

6-4  
(26)

Rubenstein

MR. BIENSTOCK: I wasn't particularly referring to your business.

MR. RUBENSTEIN: Thank you.

MR. BIENSTOCK: I was referring more to the mores of the profession.

MR. RUBENSTEIN: The public relations people that I know in New York are really competent, the ones I know. They often come from the newspaper environment, they worked for newspapers, television. Some have been in government. The ones I know and that, probably, you have interviewd, are ethical and very good at what they do, and they realize that a good image is very important to the success of their client.

For example, there have been -- there's one developer that was under very bad attack for -- he's not a client of mine -- for tearing down some buildings illegally.

MR. BIENSTOCK: Down the block.

MR. RUBENSTEIN: On 44th, that's right. And I don't know if he is a contributor or not, and he's successful. He has a long way to go to repair his image, a long way. And there are others that lean over backwards to be responsive to a client. That

1 going to continue to render that. Fundraising to  
2 me is only a minuscule part of everything. I lose  
3 nothing. Even though you mentioned that I might,  
4 I don't think that I lose anything, and I don't  
5 think the public official loses anything. I think  
6 the public official who backs this position gains.  
7 He'll gain in the perception that he understands,  
8 and that's really important to me.  
9

10 THE CHAIRMAN: Thank you very much.

11 MR. RUBENSTEIN: Thank you.

12 THE CHAIRMAN: The hearing is concluded.

13 (Time noted: 4:15 o'clock p.m.)  
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